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DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 28

[Docket No. 02–02]

RIN 1557–AC05

International Banking Activities: Capital Equivalency Deposits

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Interim rule with request for comments.

SUMMARY: The Comptroller of the Currency is amending its regulation regarding the capital equivalency deposits (CED) that foreign banks with Federal branches or agencies must establish and maintain pursuant to section 4(g) of the International Banking Act of 1978. This interim rule revises certain requirements regarding CED deposit arrangements to increase flexibility for and reduce burden on certain Federal branches and agencies, based on a supervisory assessment of the risks presented by the particular institution. The OCC is issuing this rule on an interim basis effective January 30, 2002.

DATES: *Effective Date:* This rule is effective on January 30, 2002.

Comment Date: Comments must be received by April 1, 2002.

ADDRESSES: Please direct comments to: Public Information Room, Office of the Comptroller of the Currency, 250 E Street, SW., Mailstop 1–5, Washington, DC, 20219, Attention: Docket No. 02–02. Comments are available for inspection and photocopying at that address. In addition, comments may be sent by facsimile transmission to number 202–874–4448, or by electronic mail to *regs.comments@occ.treas.gov.* Due to recent, temporary disruptions in the OCC's mail service, commenters are encouraged to use e-mail delivery if possible.

FOR FURTHER INFORMATION CONTACT: Martha Clarke, Counsel, Legislative and Regulatory Activities Division, 202–874–5090; or Carlos Hernandez, International Advisor, International Banking and Finance Division, 202–874–4730.

SUPPLEMENTARY INFORMATION: This interim rule revises certain requirements regarding CED deposit arrangements to increase flexibility and reduce burden by permitting the OCC to impose deposit requirements based on the same supervision by risk approach that it uses in its supervision of national banks. The interim rule revises 12 CFR 28.15(d) to clarify that the OCC may vary the terms of CED Agreements (Agreement) based on the circumstances and supervisory risks present at a particular branch or agency. For example, an Agreement may permit a foreign bank to withdraw assets from its CED account, reducing the net value of the assets held in the account without OCC approval, as long as the withdrawal does not reduce the value below the minimum CED level required for that institution. Moreover, it may not be necessary in all cases for a foreign bank to pledge its CED assets to the OCC or for the depository bank to be a signatory to the Agreement unless required by the OCC. The OCC will make these determinations on a case by case basis, consistent with its supervisory assessment of the risks presented by the particular institution.

Comment Solicitation

The OCC requests comment on all aspects of this interim rule.

The OCC also requests comment on whether the interim rule is written clearly and is easy to understand. On June 1, 1998, the President issued a memorandum directing each agency in the Executive branch to write its rules in plain language. This directive applies to all new proposed and final rulemaking documents issued on or after January 1, 1999. In addition, Public Law 106–102 requires each Federal agency to use plain language in all proposed and final rules published after January 1, 2000. The OCC invites comments on how to make this rule clearer. For example, you may wish to discuss:

(1) Whether we have organized the material to suit your needs;

(2) Whether the requirements of the rule are clear; or

(3) Whether there is something else we could do to make the rule easier to understand.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the OCC certifies that this proposal will not have a significant economic impact on a substantial number of small entities. The principal effect of the rule is to remove several requirements with respect to deposit arrangements for the CED and reduce burden on qualifying foreign banks with Federal branches and agencies.

Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, Public Law 104–4 (Unfunded Mandates Act) requires that an agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. The OCC has determined that the interim rule will not result in expenditures by State, local, or tribal governments or by the private sector of $100 million or more. Accordingly, the OCC has not prepared a budgetary impact statement or specifically addressed the regulatory alternatives considered.

Executive Order 12866

The OCC has determined that this rule does not constitute a ''significant regulatory action'' for the purposes of Executive Order 12866.

Effective Date

The rule is effective immediately on an interim basis. Pursuant to 5 U.S.C. 553, agencies may issue a rule without public notice and comment when the agency, for good cause, finds that such notice and public comment are impracticable, unnecessary, or contrary

to the public interest. Section 553 also permits agencies to issue a rule without delaying its effectiveness if the agency finds good cause for the immediate effective date.

The OCC finds good cause to issue this rule without notice and public comment and without a delayed effective date. The change will enable the OCC to make determinations on a case by case basis, consistent with its supervisory assessment of the risks presented by a particular institution, as to whether a foreign bank should continue to be required to pledge its CED assets to the OCC or to obtain the OCC's approval to reduce the aggregate value of the CED assets by withdrawal. These requirements are costly and burdensome, and where they are not required for safety and soundness reasons, it is in the public interest to make this interim rule effective immediately so that qualifying foreign banks that do not pose safety or soundness issues may take advantage immediately of the cost savings and burden reduction benefits of the change. The OCC is seeking public comment on all aspects of this interim rule and will consider those comments when promulgating the final rule. The OCC will publish in the **Federal Register** a response to any significant adverse comments received, along with modifications to the rule, if any.

Subject to certain exceptions, 12 U.S.C. 4802(b)(1) provides that new regulations and amendments to regulations prescribed by a federal banking agency that impose additional reporting, disclosure, or other new requirements on an insured depository institution must take effect on the first day of a calendar quarter that begins on or after the date on which the regulations are published in final form. The interim rule imposes no additional reporting, disclosure, or other new requirements on insured depository institutions. Instead it removes restrictions for qualifying foreign banks with Federal branches and agencies. For this reason, section 4802(b)(1) does not apply to this rulemaking.

Paperwork Reduction Act

The OCC may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The information collection requirements contained in 12 CFR Part 28 have been approved under OMB control number 1557–0102.

The information collection requirements contained in this rule are contained in section 28.15(d). Under this section as amended, capital equivalency deposits may not be reduced in value below the minimum required for that branch or agency without prior OCC approval, and Federal branches and agencies are required to maintain records.

Estimated number of respondents: 35.

Estimated number of responses: 35.

Estimated burden hours per response: 1 hour.

Estimated number of recordkeepers: 35.

Estimated number of recordkeeping burden hours:

Estimated total burden hours:

The OCC has a continuing interest in the public's opinion regarding collections of information. Members of the public may submit comments regarding any aspects of the collections of information to Jessie Dunaway, OCC Clearance Officer, 250 E Street, SW., Mailstop 8–4, Washington, DC 20219. Due to the temporary delay in mail delivery, you may prefer to send your comments by electronic mail to: *jessie.dunaway@occ.treas.gov.*

The OCC invites comments on:

(1) Whether the collections of information are necessary for the proper performance of the agency's functions, including whether the information has practical utility:

(2) The accuracy of the estimate of the burden;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected;

(4) Ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology;

(5) Estimates of capital or start-up costs and costs of operation, maintenance, and purchases of services to provide information.

List of Subjects in 12 CFR Part 28

Foreign banking, National banks, Reporting and recordkeeping requirements.

Authority and Issuance

For the reasons set forth in the preamble, the OCC amends part 28 of chapter I of title 12 of the Code of Federal Regulations as follows:

PART 28—INTERNATIONAL BANKING ACTIVITIES

1. The authority citation for part 28 is amended to read as follows:

Authority: 12 U.S.C. 1 *et seq.,* 24(Seventh), 93a, 161, 602, 1818, 3101 *et seq.*, and 3901 *et seq.*

2. In § 28.15, paragraphs (d)(1) and (d)(2) are revised to read as follows:

§ 28.15 Capital equivalency deposits.

* * * * *

(d) * * *

(1) May not be reduced in value below the minimum required for that branch or agency without the prior approval of the OCC;

(2) Must be maintained pursuant to an agreement prescribed by the OCC that shall be a written agreement entered into with the OCC for purposes of section 8 of the Federal Deposit Insurance Act, 12 U.S.C. 1818; and

* * * * *

Dated: January 18, 2002.

John D. Hawke, Jr.,

Comptroller of the Currency.

[FR Doc. 02–2171 Filed 1–29–02; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NE–45–AD; Amendment 39–12595; AD 2002–01–04]

RIN 2120–AA64

Airworthiness Directives; General Electric Company CF6–80E1 Model Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to General Electric Company CF6–80E1 model turbofan engines. This action requires flex borescope inspections of high pressure turbine (HPT) stage two (S2) nozzle guide vanes (NGV) installed in CF6–80E1 model turbofan engines. This amendment is prompted by an uncontained engine failure attributed to HPT S2 NGV distress. The actions specified in this AD are intended to prevent blade failure from HPT S2 NGV distress, which could result in an uncontained engine failure.

DATES: Effective February 14, 2002. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of February 14, 2002.

Comments for inclusion in the Rules Docket must be received on or before April 1, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation

Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–NE–45–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may be inspected at this location, by appointment, between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Comments may also be sent via the Internet using the following address: ''*9-ane-adcomment@faa.gov*''. Comments sent via the Internet must contain the docket number in the subject line.

The service information referenced in this AD may be obtained from General Electric Company via Lockheed Martin Technology Services, 10525 Chester Road, Suite C, Cincinnati, Ohio 45215, telephone (513) 672–8400, fax (513) 672–8422. This information may be examined, by appointment, at the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Karen Curtis, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone: (781) 238–7192; fax: (781) 238–7199.

SUPPLEMENTARY INFORMATION: On July 25, 2001, an uncontained engine failure (engine case only) and in flight shutdown (IFSD) occurred on a CF6–80E1 engine installed in an Airbus A330 airplane. There was no nacelle penetration or aircraft damage as a result of this event. However, similar events have occurred on other CF6 engine models with similar design HPT S2 NGV's that have resulted in nacelle penetration and minor airplane damage. HPT NGV's modified per GE Aircraft Engines (GE) Service Bulletin (SB) 72–0164, part numbers (P/N's) 1647M84G09/G10, are more susceptible to airfoil outer fillet cracking. This cracking can propagate to a condition where the nozzle segment sags backward and contacts the HPT Stage 2 blade row. This contact can progress to notching of the blade airfoil at the root and lead to blade failure. The actions specified in this AD are intended to prevent blade failure from HPT S2 NGV distress, which could result in an uncontained engine failure.

Manufacturer's Service Information

The FAA has reviewed and approved the technical contents of GE SB CF6–80E1 S/B 72–0217, dated October 25, 2001, and S/B 72–0217, Revision 1, dated January 14, 2002 that describe procedures for initial and repetitive flex borescope inspection of HPT S2 NGV P/N's 1647M84G09/G10.

FAA's Determination of an Unsafe Condition and Required Actions

Although none of these affected engine models are used on any airplanes that are registered in the United States, the possibility exists that the engine models could be used on airplanes that are registered in the United States in the future. This AD is being issued to prevent blade failure from HPT S2 NGV distress, which could result in an uncontained engine failure. This AD requires flex borescope inspections of HPT S2 NGV's installed in CF6–80E1 model turbofan engines. The actions are required to be done in accordance with the service bulletin described previously.

Immediate Adoption of This AD

Since there are currently no domestic operators of this engine model, notice and opportunity for prior public comment are unnecessary. Therefore, a situation exists that allows the immediate adoption of this regulation.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2001–NE–45–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Analysis

This final rule does not have federalism implications, as defined in Executive Order 13132, because it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with state authorities prior to publication of this final rule.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2002–01–04 General Electric Company: Amendment 39–12595. Docket No. 2001–NE–45–AD.

Applicability

This airworthiness directive (AD) is applicable to General Electric Company CF6–80E1 engine models with high pressure turbine (HPT) stage 2 (S2) nozzle guide vane (NGV) part numbers (P/N's) 1647M84G09 or 1647M84G10. These engines are installed on, but not limited to, Airbus A330 airplanes.

Note 1: This AD applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (f) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance

Compliance with this AD is required as indicated, unless already done. To prevent blade failure from HPT S2 NGV distress, which could result in an uncontained engine failure, do the following.

Previously Flex Borescope Inspected NGV's

(a) For NGV P/N's 1647M84G09 or 1647M84G10 that have been flex borescope inspected before the effective date of this AD, re-reinspect the NGV's in accordance with Conditions and Re-inspection intervals listed in the ''Inspection Table for Cracking in the Airfoil Outer Fillet,'' Figure 5, of GE Aircraft Engines (GE) Service Bulletin (SB) CF6–80E1 S/B 72–0217, dated October 25, 2001 or S/B 72–0217, Revision 1, dated January 14, 2002, or within 250 cycles-in-service-since-last inspection (CSLI), whichever is earlier.

NGV's Not Previously Inspected

(b) For NGV's P/N's 1647M84G09 or 1647M84G10 not previously flex borescope inspected, inspect in accordance with the Accomplishment Instructions of GE SB CF6–80E1 S/B 72–0217, Revision 1, dated January 14, 2002, as follows:

(1) For NGV's with 1,200 or more cycles-since-overhaul (CSO) on the effective date of this AD, flex borescope inspect within 50 cycles-in-service (CIS) after the effective date of this AD.

(2) For NGV's with 1,200 or fewer CSO on the effective date of this AD, flex borescope inspect at the first regular HPT blade inspection after 1,200 CSO, but before reaching 1,250 CSO.

Reinspection

(c) Re-inspect or remove from service NGV's in accordance with the Conditions and Re-inspection intervals listed in the ''Inspection Table for Cracking in the Airfoil Outer Fillet,'' Figure 5, of GE SB CF6–80E1 S/B 72–0217, Revision 1, dated January 14, 2002.

Cycles-Since-Overhaul Defined

(d) For the purposes of this proposed AD, cycles-since-overhaul (CSO) is defined as cycles since repair as described in GE SB CF6–80E1 S/B 72–0164, dated March 16, 1999.

Engines Not Affected by this AD

(e) Engines configured with HPT S2 NGV P/N's 1647M84G05 or 1647M84G06, or 2080M47G01 or 2080M47G02 are not affected by this AD.

Alternative Methods of Compliance

(f) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office (ECO). Operators must submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, ECO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Boston ECO.

Special Flight Permits

(g) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be done.

Documents That Have Been Incorporated by Reference

(h) The inspection must be done in accordance with GE Aircraft Engines Service Bulletin CF6–80E1 S/B 72–0217, dated October 25, 2001 or S/B 72–0217, Revision 1, dated January 14, 2002. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from General Electric Company via Lockheed Martin Technology Services, 10525 Chester Road, Suite C, Cincinnati, Ohio 45215, telephone (513) 672–8400, fax (513) 672–8422. Copies may be inspected, by appointment, at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(i) This amendment becomes effective on February 14, 2002.

Issued in Burlington, Massachusetts, on January 15, 2002.

Thomas A. Boudreau,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 02–1692 Filed 1–29–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–385–AD; Amendment 39–12609; AD 2002–01–15]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 767–200, –300, and –300F Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Boeing Model 767–200, –300, and –300F series airplanes. This action requires repetitive inspections of the lubrication passage and link assembly joint in the inboard and outboard flaps of the trailing edge for discrepancies, and corrective action, if necessary. This action is necessary to prevent failure of the bearings in the link assembly joint, which could result in separation of the outboard flap and consequent loss of control of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective February 14, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 14, 2002.

Comments for inclusion in the Rules Docket must be received on or before April 1, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–385–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-iarcomment@faa.gov*. Comments sent via fax or the Internet must contain ''Docket No. 2001–NM–385–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box

3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: John Craycraft, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2782; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: The FAA has received reports indicating that fractured bearings and blocked lubrication passages of the link assembly joint in the inboard and outboard flaps of the trailing edge were found on certain Boeing Model 767 series airplanes. The fractured bearings cause looseness in the joint, resulting in damage to the joint pin, the link assembly bore, and another joint fitting. The bearings were thought to have fractured due to lack of lubrication to the joint, which was caused by shot peen pellets blocking the lubrication passage. However, further data revealed that failure of the bearings can occur even when they are properly lubricated. Such failure in the link assembly joint, if not found and fixed, could result in separation of the outboard flap and consequent loss of control of the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 767–27A0167, dated December 7, 2000, which describes procedures for initial and repetitive inspections of the lubrication passage and link assembly joint in the inboard and outboard flaps of the trailing edge for discrepancies (blocked lubrication passage, fractured bearings, loose or damaged joint). The service bulletin also provides corrective action for the repetitive inspections and states that it eliminates the need for continued inspections. The corrective action includes removal and inspection of the link assembly for damage, and replacement of the link assembly with a new assembly if damage is found.

Explanation of the Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, this AD is being issued to prevent failure of the bearings in the link assembly joint. This AD requires repetitive inspections of the lubrication passage and link assembly joint in the inboard and outboard flaps of the trailing edge for discrepancies, and corrective action, if necessary. The actions are required to be accomplished in accordance with the service bulletin described previously, except as discussed below.

Differences Between Alert Service Bulletin and This AD

Part 2 of the Accomplishment Instructions of the service bulletin provides for a terminating action that involves replacing the link assemblies in the inboard and outboard flaps of the trailing edge. Because of the recent failure of a bearing that was properly lubricated, the FAA does not currently recognize that action as terminating action for the repetitive inspections described previously. Therefore, while this AD requires replacement of the link assemblies as corrective action, the FAA does not recognize such replacement as terminating action, so the repetitive inspections must continue.

The compliance time for the initial inspections of the lubrication passage and link assembly joint in the inboard and outboard flaps of the trailing edge, as specified in the service bulletin, is within 90 days for Group 1 airplanes, or within 18 months for Group 2 airplanes. For airplanes that have done Part 2 of the service bulletin, this AD requires the initial inspection be done within 6 months after the effective date of this AD. For airplanes that have not done Part 2 of the service bulletin, this AD requires the initial inspection be done within 90 days after the effective date of this AD or within 36 months after date of manufacture of the airplane, whichever is later.

The service bulletin also specifies doing follow-on repetitive inspections every 60 days if the lubrication passage is blocked and no fractured bearing or loose or damaged joint is found, until accomplishment of the terminating action within 24 months after the initial inspections. This AD requires doing repetitive inspections every 30 days if the lubrication passage is blocked and no fractured bearing or loose or damaged joint is found, then accomplishment of the corrective action within 6 months after doing the initial inspections, and repetitive inspections every 6 months after that. This AD also requires doing the repetitive inspections every 6 months if the lubrication passage is not blocked and no fractured bearing or loose or damaged joint is found. The FAA has determined that these compliance times represent the maximum interval of time allowable for affected airplanes to continue to safely operate before the required actions are accomplished.

In addition, the service bulletin does not identify the type of inspection that is involved in the procedures for inspecting the lubrication passage and link assembly joint in the inboard and outboard flaps of the trailing edge. The FAA refers to this inspection in the AD as a ''general visual'' inspection.

Interim Action

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking. The final action may require accomplishment of Part 2 of the Accomplishment Instructions of the service bulletin, in addition to a new terminating action that may be developed. The new action may specifically address the failure of properly lubricated bearings, and the two actions may have different compliance thresholds.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the AD is being requested.

• Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2001–NM–385–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2002–01–15 Boeing: Amendment 39–12609. Docket 2001–NM–385–AD.

Applicability: Model 767–200, –300, and –300F series airplanes, line numbers 1 through 819 inclusive, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the bearings in the link assembly joint in the inboard and outboard flaps of the trailing edge, which could result in separation of the outboard flap and consequent loss of control of the airplane, accomplish the following:

Initial Inspection

(a) Do general visual inspections of the lubrication passage and link assembly joint in the inboard and outboard flaps of the trailing edge for discrepancies (e.g., lubrication passage blocked, fractured bearing, loose or damaged joint), at the times specified in paragraph (a)(1) or (a)(2) of this AD, as applicable; per Part 1 of the Accomplishment Instructions of Boeing Alert Service Bulletin 767–27A0167, dated December 7, 2000.

Note 2: For the purposes of this AD, a general visual inspection is defined as: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

(1) For airplanes that have done Part 2 of the Accomplishment Instructions of the service bulletin: Within 6 months after the effective date of this AD.

(2) For airplanes that have not done Part 2 of the Accomplishment Instructions of the service bulletin: Within 90 days after the effective date of this AD or within 36 months after date of manufacture of the airplane, whichever is later.

Repetitive Inspections/Corrective Action

(b) Do the actions required by paragraph (b)(1), (b)(2), or (b)(3) of this AD, as applicable, at the time specified, per the Accomplishment Instructions of Boeing Alert Service Bulletin 767–27A0167, dated December 7, 2000.

(1) If the lubrication passage is not blocked and no fractured bearing or loose or damaged joint is found, repeat the inspection required by paragraph (a) of this AD every 6 months.

(2) If the lubrication passage is blocked and no fractured bearing or loose or damaged joint is found, repeat the inspection required by paragraph (a) of this AD every 30 days, and within 6 months after doing the initial inspection, do the actions required by paragraph (b)(3) of this AD.

(3) If any fractured bearing or loose or damaged joint is found, before further flight, do the corrective action (including removal of the link assembly, inspection for damage, and replacement with a new assembly if damaged), as specified in Part 2 of the Accomplishment Instructions of the service bulletin. Then repeat the inspections required by paragraph (a) of this AD every 6 months.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO). Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(e) The actions shall be done in accordance with Boeing Alert Service Bulletin 767–27A0167, dated December 7, 2000. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(f) This amendment becomes effective on February 14, 2002.

Issued in Renton, Washington, on January 16, 2002.

Michael J. Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–1691 Filed 1–29–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–199–AD; Amendment 39–12615; AD 2002–01–21]

RIN 2120–AA64

Airworthiness Directives; BAE Systems (Operations) Limited Model BAe 146 Series Airplanes and Avro 146–RJ Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain BAE Systems (Operations) Limited Model BAe 146 series airplanes and Avro 146–RJ series airplanes, that requires replacement of the standby generator with a new, improved standby generator. This amendment is prompted by mandatory continuing airworthiness information from a foreign airworthiness authority. This action is necessary to prevent loss of the standby generator, which, in the event of an emergency involving the principal generator, could result in the loss of electrical power to the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective March 6, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 6, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tamra Elkins, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2669; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain BAE Systems (Operations) Limited Model BAe 146 series airplanes and Avro 146–RJ series airplanes was published in the **Federal Register** on October 12, 2001 (66 FR 52070). That action proposed to require replacement of the standby generator with a new, improved standby generator.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 40 Model BAe 146 series airplanes and Avro 146–RJ series airplanes of U.S. registry will be affected by this AD, that it will take approximately 3 work hours per airplane to accomplish the required replacement of the standby generator with a new, improved standby generator, and that the average labor rate is $60 per work hour. There is no charge for required parts. Based on these figures, the cost impact of the replacement required by this AD on U.S. operators is estimated to be $7,200, or $180 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2002–01–21 BAE Systems (Operations) Limited (Formerly British Aerospace Regional Aircraft): Amendment 39–12615. Docket 2001–NM–199–AD.

Applicability: Model BA–146 series airplanes and Avro 146–RJ series airplanes, certificated in any category, having BAE Modification HCM01059A (installation of a standby generator and control system manufactured by Vickers) embodied.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by

this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of the standby generator, which, in the event of an emergency involving the principal generator, could result in the loss of electrical power to the airplane; accomplish the following:

Replacement

(a) Within 43 months after the effective date of this AD: Replace the Vickers standby generator having part number (P/N) 520829 with a new, improved Vickers standby generator having P/N 3022049–000, in accordance with BAE Systems (Operations) Limited Modification Service Bulletin SB.24–137–01691A, dated April 12, 2001.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(d) The actions shall be done in accordance with BAE Systems (Operations) Limited Modification Service Bulletin SB.24–137–01691A, dated April 12, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in British airworthiness directive 004–04–2001, dated May 22, 2001.

Effective Date

(e) This amendment becomes effective on March 6, 2002.

Issued in Renton, Washington, on January 17, 2002.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–1819 Filed 1–29–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–150–AD; Amendment 39–12614; AD 2002–01–20]

RIN 2120–AA64

Airworthiness Directives; BAE Systems (Operations) Limited Model BAe 146–200A Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain BAE Systems (Operations) Limited Model BAe 146–200A series airplanes, that requires replacement of the signal summing units (SSUs) for the stall identification system with new, improved parts. The actions specified by this AD are intended to prevent stall identification and stall warning signals from occurring at the same time, leading the flight crew to take action based on erroneous information, which could result in reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective March 6, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 6, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1175; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain BAE Systems (Operations) Limited Model BAe 146–200A series airplanes was published in the **Federal Register** on October 29, 2001 (66 FR 54466). That action proposed to require replacement of the signal summing units (SSUs) for the stall identification system with new, improved parts.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 12 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the replacement, and that the average labor rate is $60 per work hour. Required parts will cost between $23,747 and $29,688 per airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be between $285,684 and $356,976, or between $23,807 and $29,748 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not

have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2002–01–20 BAE Systems (Operations) Limited (Formerly British Aerospace Regional Aircraft): Amendment 39–12614. Docket 2001–NM–150–AD.

Applicability: Model BAe 146–200A series airplanes, as listed in BAE Systems (Operations) Limited Modification Service Bulletin SB.27–109–00503C, Revision 3, dated March 19, 2001; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent stall identification and stall warning signals from occurring at the same time, leading the flight crew to take action based on erroneous information, which could result in reduced controllability of the airplane, accomplish the following:

Replacement

(a) Within 1 year after the effective date of this AD, replace signal summing units (SSUs), part number C81606–3, for the stall identification system with new SSUs having part number C81606–5, according to BAE Systems (Operations) Limited Modification Service Bulletin SB.27–109–00503C, Revision 3, dated March 19, 2001.

Note 2: Replacement of SSUs having part number C81606–3 with new SSUs having part number C81606–5 accomplished according to British Aerospace Modification Service Bulletin SB.27–109–00503C, Revision 1, dated November 12, 1990; or Revision 2, dated February 4, 2000; is acceptable for compliance with paragraph (a) of this AD.

Spares

(b) As of the effective date of this AD, no person shall install an SSU, part number C81606–3, on any airplane.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(e) The actions shall be done in accordance with BAE Systems (Operations) Limited Modification Service Bulletin SB.27–109–00503C, Revision 3, dated March 19, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 4: The subject of this AD is addressed in British airworthiness directive 009–06–90.

Effective Date

(f) This amendment becomes effective on March 6, 2002.

Issued in Renton, Washington, on January 17, 2002.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–1818 Filed 1–29–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–71–AD; Amendment 39–12612; AD 2002–01–18]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A319, A320, and A321 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A319, A320, and A321 series airplanes, that requires replacement of the trigger spring of the slide bar on each of the passenger doors with a new, stronger trigger spring. This action is necessary to prevent corrosion of the trigger spring on the slide bar of the passenger doors, which could result in incorrect locking of the slide bar and, during deployment of the escape slide, lead to a delay in evacuating passengers in an emergency. This action is intended to address the identified unsafe condition.

DATES: Effective March 6, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 6, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, FAA, Transport

Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington, telephone (425) 227–2125, fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Airbus Model A319, A320, and A321 series airplanes was published in the **Federal Register** on August 31, 2001 (66 FR 45950). That action proposed to require replacement of the trigger spring of the slide bar on each of the passenger doors with a new, stronger trigger spring.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

Request To Revise Proposed Compliance Time

The commenter requests that the FAA revise the compliance time of paragraph (a) of the proposed AD to refer to ''30 months after the 'entry in service' of the airplane'' instead of ''30 months from the date of manufacture of the airplane.'' The commenter points out that the date of manufacture is the date of the first flight of the airplane, whereas the date of ''entry into service'' is the date of delivery of the airplane. The difference between these dates could be one month or more. The commenter notes that its recommended change would make the FAA's proposed AD consistent with the corresponding French AD.

We do not concur. For clarification, we define the ''date of manufacture'' as the date of issuance of the Certificate of Airworthiness. We find that this constitutes a definitive date when all of the manufacturing processes are completed. We have determined that this date should be readily discernible by operators, and no change to the final rule is necessary in this regard.

Explanation of Change to Applicability Statement

The FAA has determined that the wording of the applicability statement in the proposed AD may be confusing for some operators. Therefore, we have revised the wording of the applicability statement of this final rule for clarity.

Conclusion

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the change described previously. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

The FAA estimates that 152 Model A319, A320, and A321 series airplanes of U.S. registry will be affected by this AD, that it will take approximately 8 work hours per airplane to accomplish the required replacement, and that the average labor rate is $60 per work hour. Required parts will be provided at no charge by the manufacturer. Based on these figures, the cost impact of this AD on U.S. operators is estimated to be $72,960, or $480 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2002–01–18 Airbus Industrie: Amendment 39–12612. Docket 2001–NM–71–AD.

Applicability: Model A319, A320, and A321 series airplanes; all serial numbers having received Airbus Modification 20234 (Airbus Service Bulletin A320–25–1055) (installation of telescopic girt bar for slide raft), but NOT having received Airbus Modification 28212 (Airbus Service Bulletin A320–52–1102, Revision 01, dated November 25, 1999); certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent corrosion of the trigger spring on the slide bar of the forward and aft passenger doors, which could result in incorrect locking of the slide bar during deployment of the escape slide and lead to a delay in evacuating passengers in an emergency, accomplish the following:

Replacement

(a) Within 18 months of the effective date of this AD or within 30 months after the date of manufacture of the airplane, whichever occurs later: Replace the carbon-steel trigger spring having part number (P/N) D5211046420000 on each of the forward and aft passenger doors with a stainless steel trigger spring having P/N D5211046420200, in accordance with Airbus Service Bulletin A320–52–1102, Revision 01, dated November 25, 1999.

Spares

(b) As of the effective date of this AD, no person shall install a carbon-steel trigger

spring having P/N D5211046420000, on any airplane.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Manager, International Branch, ANM–116.

Special Flight Permits

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(e) The actions shall be done in accordance with Airbus Service Bulletin A320–52–1102, Revision 01, dated November 25, 1999. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in French airworthiness directive 2001–063(B), dated February 21, 2001.

Effective Date

(f) This amendment becomes effective on March 6, 2002.

Issued in Renton, Washington, on January 17, 2002.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–1817 Filed 1–29–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–CE–36–AD; Amendment 39–12610, AD 2002–01–16]

RIN 2120–AA64

Airworthiness Directives; Fairchild Aircraft, Inc. SA26, SA226, and SA227 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes Airworthiness Directive (AD) 86–24–11 and AD 86–25–04, which require you to incorporate, into the Limitations Section of the pilot's operating handbook and airplane flight manual (POH/AFM) of Fairchild Aircraft, Inc. (Fairchild Aircraft) SA226 and SA227 series airplanes, procedures for preventing an engine flameout while in icing conditions. This AD retains the POH/AFM requirements from the above-referenced AD's and requires a modification to the torque sensing system to allow the igniters to automatically turn on when an engine senses low torque. This AD is the result of two instances of a dual engine flameout on the affected airplanes. When the torque sensing system modification is incorporated, the POH/AFM requirements are no longer necessary. The actions specified by this AD are intended to prevent a dual engine flameout on the affected airplanes by providing a system that automatically turns on the engine igniters when low torque is sensed. A dual engine flameout could result in failure of both engines with consequent loss of control of the airplane.

DATES: This AD becomes effective on March 11, 2002.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of March 11, 2002.

ADDRESSES: You may get the service information referenced in this AD from Fairchild Aircraft, Inc., P.O. Box 790490, San Antonio, Texas 78279–0490; telephone: (210) 824–9421; facsimile: (210) 820–8609. You may view this information at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel,Attention: Rules Docket No. 2000–CE–36–AD, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ingrid Knox, Aerospace Engineer, FAA, Airplane Certification Office, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150; telephone: (817) 222–5139; facsimile: (817) 222–5960.

SUPPLEMENTARY INFORMATION:

Discussion

What Events Have Caused This AD?

Several occurrences of dual-engine flameout on aircraft caused FAA to examine the service history of certain type-certificated airplanes. Among those examined were the Fairchild Aircraft SA26, SA226, and SA227 series airplanes.

Our analysis reveals the following:

—Two incidents of dual-engine flameout on Fairchild Aircraft SA227 series airplanes; and

—The incidents are unique to the specific airplane configuration and not the generic engine installation.

What Are the Consequences if the Condition Is Not Corrected?

A dual engine flameout could result in failure of both engines with consequent loss of control of the airplane.

Has FAA Taken Any Action to This Point?

We issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Fairchild Aircraft SA26, SA226, and SA227 series airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on May 30, 2001 (66 FR 29268). The NPRM proposed to require you to incorporate a kit that would modify the torque sensing system to allow the igniters to automatically turn on when an engine senses low torque.

Was the Public Invited To Comment?

The FAA encouraged interested persons to participate in the making of this amendment. We did not receive any comments on the proposed rule or the FAA's determination of the cost to the public.

During the comment period, we realized that the following AD's relate to this subject:

—AD 86–24–11, Amendment 39–5481, which applies to Fairchild Aircraft SA226 series airplanes; and

—AD 86–25–04, Amendment 39–5485, which applies to Fairchild SA227 series airplanes.

These AD's require you to incorporate, into the Limitations Section of the pilot's operating handbook and airplane flight manual (POH/AFM) of Fairchild Aircraft, Inc. (Fairchild Aircraft) SA226 and SA227 series airplanes, procedures for preventing an engine flameout while in icing conditions.

When the torque sensing system modification is incorporated, the POH/AFM requirements are no longer necessary. Therefore, we are superseding these AD's in this action.

FAA's Determination

What Is FAA's Final Determination on This Issue?

After careful review of all available information related to the subject presented above, we have determined that air safety and the public interest require the adoption of the rule as proposed except for the change described above and minor editorial corrections. We determined that these changes:

- Will not change the meaning of the AD; and
- Will not add any additional burden upon the public than was already proposed.

Cost Impact

How Many Airplanes Does This AD Impact?

We estimate that this AD affects 259 airplanes in the U.S. registry.

What Is the Cost Impact of This AD on Owners/Operators of the Affected Airplanes?

We estimate the following costs to accomplish the modification:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
16 workhours × $60 per hour = $960	Ranges between $1,726 and $6,873 per airplane (we will use a figure of $4,000).	$4,960 per airplane	$1,284,640

Compliance Time of This AD

What is the Compliance Time of This AD?

The compliance time of the required modification is within the next 6 calendar months after the effective date of this AD.

Why Is the Compliance Time Presented in Calendar Time Instead of Hours Time-In-Service (TIS)?

Although a dual-engine flameout could only occur on the affected airplanes during airplane operation, the condition is not directly related to airplane usage. The condition exists on the airplanes regardless of whether the airplane has accumulated 50 hours time-in-service (TIS) or 5,000 hours TIS.

The FAA has determined that the 6-calendar-month compliance time:

- Gives all owners/operators of the affected airplanes adequate time to schedule and accomplish the actions in this AD; and
- Ensures that the unsafe condition referenced in this AD will be corrected within a reasonable time period without inadvertently grounding any of the affected airplanes.

Regulatory Impact

Does This AD Impact Various Entities?

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

Does This AD Involve a Significant Rule or Regulatory Action?

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. FAA amends § 39.13 by removing both Airworthiness Directive (AD) 86–24–11, Amendment 39–5481, and AD 86–25–04, Amendment 39–5485; and by adding a new AD to read as follows:

2002–01–16 Fairchild Aircraft, Inc.: Amendment 39–12610, Docket No. 2000–CE–36–AD; Supersedes AD 86–24–11, Amendment 39–5481, and AD 86–25–04, Amendment 39–5485.

(a) *What airplanes are affected by this AD?* This AD affects the following airplane models and serial numbers that are certificated in any category:

Model	Serial numbers
SA26–AT	AT100 through AT180E.
SA226–AT	AT001 through AT074.
SA226–T	T201 through T275, and T277 through T291.
SA226–T(B)	T276 and T292 through T417.
SA226–TC	TC201 through TC419.
SA227–AC	AC406, AC415, AC416, AC420 through AC633, AC637, AC638, AC641 through AC644, AC647, AC648, AC651, AC652, AC656, and AC657.
SA227–AT	AT423 through AT631.
SA227–TT	TT421 through TT547.

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the airplanes identified in paragraph (a) of this AD must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to prevent a dual engine flameout on the affected airplanes by providing a system that automatically turns on the engine igniters when low torque is sensed. A dual engine flameout could result in failure of both engines with consequent loss of control of the airplane.

(d) *What actions must I accomplish to address this problem?* To address this problem, you must accomplish the following:

Actions	Compliance	Procedures
(1) Incorporate, into the Limitations Section of the pilot's operating handbook and airplane flight manual (POH/AFM), the procedures included as Appendix 1 or Appendix 2 of this AD, as applicable. Following these procedures is intended to prevent an engine flameout while in icing conditions.	For all airplanes except for the Model SA26–AT airplanes: within the next 50 hours time-in-service (TIS) after December 15, 1986 (the effective date of AD 86–24–11 and AD 86–25–04), unless already accomplished (compliance with either AD 86–24–11 or AD 86–25–04, as applicable). For the Model SA26–AT airplanes: within the next 50 hours TIS after March 11, 2002 (the effective date of this AD).	Procedures are included in Appendix 1 and Appendix 2 of the AD.
(2) Incorporate the kit specified in the applicable service bulletin. This kit modifies the torque sensing system to allow the igniters to automatically turn on when an engine senses low torque.	Within the next 6 calendar months after March 11, 2002 (the effective date of this AD).	Accomplish the modification in accordance with the instructions provided with the kit that is referenced in either Fairchild Aircraft Service Bulletin 26–74–30–048 (FA Kit Drawing 26K82301), Revised: April 13, 2000; Fairchild Aircraft Service Bulletin No. 226–74–003 (FA Kit Drawing 27K82087), Issued: March 21, 2000; Fairchild Aircraft Service Bulletin 227–74–003 (FA Kit Drawing 27K82087), Issued: March 21, 2000; or Fairchild Aircraft Service Bulletin 227–74–001, Issued: July 8, 1986, as applicable.
(3) You may remove the POH/AFM procedures as required by paragraph (1) of this AD after accomplishing the modification required in paragraph (d)(2) of this AD.	You may remove the procedures at any time after accomplishing the modification. You can accomplish the modification at any time, but you must accomplish it within the next 6 calendar months after March 11, 2002 (the effective date of this AD).	Not applicable.

Note 1: The POH/AFM procedures that are included in Appendix 1 and Appendix 2 of this AD (required by paragraph (d)(1) of this AD) are retained from AD 86–24–11, Amendment 39–5481, and AD 86–25–04, Amendment 39–5485. No further action is required by paragraph (d)(1) of this AD if you are already in compliance with AD 86–24–11 or AD 86–25–04. As specified in paragraph (d)(3) of this AD, these POH/AFM procedures are no longer necessary after accomplishment of the modification in paragraph (d)(2) of this AD.

(e) *Can I comply with this AD in any other way?* You may use an alternative method of compliance or adjust the compliance time if:

(1) Your alternative method of compliance provides an equivalent level of safety; and

(2) The Manager, Fort Worth Airplane Certification Office (ACO), approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Fort Worth ACO.

Note 2: This AD applies to each airplane identified in paragraph (a) of this AD, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Ingrid Knox, Aerospace Engineer, FAA, Airplane Certification Office, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150; telephone: (817) 222–5139; facsimile: (817) 222–5960.

(g) *What if I need to fly the airplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your airplane to a location where you can accomplish the requirements of this AD.

(h) *Are any service bulletins incorporated into this AD by reference?* The modification required by this AD must be done in accordance with instructions provided with the kit that is referenced in either Fairchild Aircraft Service Bulletin 26–74–30–048 (FA

Kit Drawing 26K82301), Revised: April 13, 2000; Fairchild Aircraft Service Bulletin No. 226–74–003 (FA Kit Drawing 27K82087), Issued: March 21, 2000; Fairchild Aircraft Service Bulletin 227–74–003 (FA Kit Drawing 27K82087), Issued: March 21, 2000; or Fairchild Aircraft Service Bulletin 227–74–001, Issued: July 8, 1986, as applicable. The Director of the Federal Register approved this incorporation by reference under 5 U.S.C. 552(a) and 1 CFR part 51. You can get copies from Fairchild Aircraft, Inc., P.O. Box 790490, San Antonio, Texas 78279–0490. You can view this information at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

(i) *When does this amendment become effective?* This amendment becomes effective on March 11, 2002.

Appendix 1—Supplement to the POH/AFM for Fairchild Aircraft Models SA26–AT, SA226–AT, SA226–T, SA226–T(B), and SA226–TC Airplanes

The IGNITION MODE switches shall be selected to AUTO/CONT during all operations in actual or potential icing conditions described herein:

(1) During takeoff and climb out in actual or potential icing conditions.

*(2) When ice is visible on, or shedding from propeller(s), spinner(s), or leading edge(s).

*(3) Before selecting ANTI–ICE, when ice has accumulated.

(4) Immediately, any time engine flameout occurs as possible result of ice ingestion.

(5) During approach and landing while in or shortly following flight in actual or potential icing conditions.

***Note:** If icing conditions are entered in flight without the engine anti-icing system having been selected, switch one ENGINE system to an ENGINE HEAT position. If the engine runs satisfactorily, switch the second ENGINE system to an ENGINE HEAT position and check that the second engine continues to run satisfactorily.

For the purpose of this POH/AFM supplement, the following definition applies:

''Potential icing conditions in precipitation or visible moisture meteorological conditions:

(1) Begin when the OAT is plus 5 degrees C (plus 41 degrees F) or colder, and

(2) End when the OAT is plus 10 degrees C (plus 50 degrees F) or warmer.''

The procedures and conditions described in this appendix supersede any other POH/AFM procedures or conditions.

Appendix 2—Supplement to the POH/AFM for Fairchild Aircraft Models SA227–AC, SA227–AT, and SA226–TT Airplanes

The IGNITION MODE switches shall be selected to OVERRIDE or, for those aircraft which have the auto-relite system installed, CONTINUOUS OR AUTO during all operations in actual or potential icing conditions described herein:

(1) During takeoff and climb out in actual or potential icing conditions.

*(2) When ice is visible on, or shedding from propeller(s), spinner(s), or leading edge(s).

*(3) Before selecting ANTI–ICE, when ice has accumulated.

(4) Immediately, any time engine flameout occurs as possible result of ice ingestion.

(5) During approach and landing while in or shortly following flight in actual or potential icing conditions.

***Note:** If icing conditions are entered in flight without the engine anti-icing system having been selected, switch one ENGINE system to an ENGINE HEAT position. If the engine runs satisfactorily, switch the second ENGINE system to an ENGINE HEAT position and check that the second engine continues to run satisfactorily.

For the purpose of this POH/AFM supplement, the following definition applies:

''Potential icing conditions in precipitation or visible moisture meteorological conditions:

(1) Begin when the OAT is plus 5 degrees C (plus 41 degrees F) or colder, and

(2) End when the OAT is plus 10 degrees C (plus 50 degrees F) or warmer.''

The procedures and conditions described in this appendix supersede any other POH/AFM procedures or conditions.

Issued in Kansas City, Missouri, on January 17, 2002.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–1816 Filed 1–29–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–07–AD; Amendment 39–12611; AD 2002–01–17]

RIN 2120–AA64

Airworthiness Directives; Dornier Model 328–100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to all Dornier Model 328–100 series airplanes. This action requires revising the Airplane Flight Manual to provide the flight crew with the appropriate procedures necessary to verify correct operation of the primary alternating current (AC) pump of the main hydraulic system before takeoff. This action is necessary to prevent takeoff with an inoperative pump, which could result in an extended takeoff roll or a rejected takeoff, and consequent runway overrun, structural damage to the airplane, and possible injury to occupants. This action is intended to address the identified unsafe condition.

DATES: Effective February 14, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 14, 2002.

Comments for inclusion in the Rules Docket must be received on or before March 1, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–07–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9–anm-iarcomment@faa.gov.* Comments sent via the Internet must contain ''Docket No. 2002–NM–07–AD'' in the subject line and need not be submitted in triplicate. Comments sent via fax or the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in this AD may be obtained from FAIRCHILD DORNIER, DORNIER Luftfahrt GmbH, P.O. Box 1103, D–82230 Wessling, Germany. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tom Groves, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1503; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, recently notified the FAA that an unsafe condition may exist on all Dornier Model 328–100 series airplanes. The LBA advises that an operator reported that during flight there was an advisory message on the Crew Alerting System showing ''HYD MAIN PMP INOP.'' The ''HYD PWR MAIN'' button was in the on position, but illuminated ''OFF.'' Investigation revealed that a

circuit breaker had popped and the alternating current (AC) main pump motor had failed. Subsequent testing revealed that it was possible to have an inoperative AC hydraulic pump without pre-flight indication to the pilot. The AC pump provides hydraulic power to the brakes, ground spoiler, anti-skid control box, and nose wheel steering. Takeoff with an inoperative pump could result in an extended takeoff roll or a rejected takeoff, and consequent runway overrun, structural damage to the airplane, and possible injury to occupants.

Service Information

The manufacturer has issued Dornier 328 All Operators Telefaxes (AOT) AOT–328–29–018 and AOT–328–29–019, both dated September 20, 2001, which describe procedures for revising the Normal Procedures section of the Airplane Flight Manual (AFM) to provide the flight crew with the appropriate procedures necessary to verify correct operation of the primary AC pump of the main hydraulic system before takeoff.

The LBA classified the AOTs as mandatory and issued German airworthiness directive 2001–358, dated December 13, 2001, in order to assure the continued airworthiness of these airplanes in Germany.

FAA's Conclusions

This airplane model is manufactured in Germany and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the LBA has kept the FAA informed of the situation described above. The FAA has examined the findings of the LBA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD is being issued to prevent takeoff with an inoperative primary AC pump of the main hydraulic system, which could result in an extended takeoff roll or a rejected takeoff, and consequent runway overrun, structural damage to the airplane, and possible injury to occupants. This AD requires revising the Normal Procedures section of the FAA-approved AFM to provide the flight crew with the appropriate procedures necessary to verify correct operation of the pump before takeoff.

Difference Between This AD and German Airworthiness Directive

The German airworthiness directive mandates doing the AFM revision before the next flight of the airplane. This AD allows operators 10 days to complete the required AFM revision. The FAA recognizes the severity of the unsafe condition presented by this situation, but finds a 10-day compliance time appropriate in consideration of the safety implications, the average utilization of the fleet, and the practical aspects of planning and scheduling accomplishment of the required AFM revision. We have considered all these factors and have determined that this compliance time will not adversely affect the continued operational safety of the fleet.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the AD is being requested.
- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2002–NM–07–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2002–01–17 Dornier Luftfahrt GMBH: Amendment 39–12611. Docket 2002–NM–07–AD.

Applicability: All Model 328–100 series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent takeoff with an inoperative primary AC pump of the main hydraulic system, which could result in an extended takeoff roll or a rejected takeoff, and consequent runway overrun, structural damage to the airplane, and possible injury to occupants; accomplish the following:

Airplane Flight Manual (AFM) Revision

(a) Within 10 days after the effective date of this AD: Revise the Normal Procedures Section of the Dornier 328 FAA-approved AFM to incorporate the procedures specified in Dornier 328 All Operators Telefax (AOT) AOT–328–29–018, or AOT–328–29–019, both dated September 20, 2001, as applicable, by inserting a copy of the AOT into the AFM.

(b) When the procedures in the applicable AOT specified in paragraph (a) of this AD have been incorporated into the FAA-approved general revisions of the AFM, the general revisions may be incorporated into the AFM, and the AOT may be removed from the AFM.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 1: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(e) The AFM revision required by paragraph (a) of this AD shall be done in accordance with Dornier 328 All Operators Telefax AOT–328–29–018, dated September 20, 2001; or Dornier 328 All Operators Telefax AOT–328–29–019, dated September 20, 2001; as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from FAIRCHILD DORNIER, DORNIER Luftfahrt GmbH, P.O. Box 1103, D–82230 Wessling, Germany. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 2: The subject of this AD is addressed in German airworthiness directive 2001–358, dated December 13, 2001.

Effective Date

(f) This amendment becomes effective on February 14, 2002.

Issued in Renton, Washington, on January 17, 2002.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–1821 Filed 1–29–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–362–AD; Amendment 39–12618; AD 2002–01–24]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9–81, –82, –83, and –87 Series Airplanes, and Model MD–88 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–9–81, –82, –83, and –87 series airplanes, and Model MD–88 airplanes, that requires replacing the dust seals of the passenger service unit (PSU) panels of the overhead stowage compartment with new dust seals. The AD provides two options to accomplish this. Operators can either replace the seals all at once or remove the seals and repetitively clean and inspect the area to defer the installation for an interim period. The actions specified by this AD are intended to ensure replacement of dust seals of the lower PSU panel that may contribute to the spread of a fire when ignition occurs from electrical arcing of a failed light holder assembly, which could cause damage to adjacent structure and smoke emitting from the PSU panel into the passenger cabin. This action is intended to address the identified unsafe condition.

DATES: Effective March 6, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 6, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Albert Lam, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5346; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–9–81, –82, –83, and –87 series airplanes, and Model MD–88 airplanes, was published in the **Federal Register** on August 3, 2001 (66 FR 40645). That action proposed to require replacement of the dust seals of the passenger service unit (PSU) panels of the overhead stowage compartment with new dust seals.

Explanation of Relevant Service Information

Since the proposed AD was published, the FAA has reviewed and approved Boeing Service Bulletin MD80–25–377, Revision 01, dated July 17, 2001. (The proposed AD cited the original service bulletin as the appropriate source of service information for the procedures for the dust seal replacement.) Revision 01 was issued to clarify the procedures for trimming the dust seal to facilitate its installation; no other significant changes were made.

Boeing had previously issued Alert Service Bulletin MD80–25A376, dated September 21, 2000, which describes

procedures for removal of the lower dust seals from the outboard PSU panels, repetitive cleaning of the oxygen canisters and PSU components (including the removal of all visible traces of dust and dirt particles from the oxygen canisters), and repetitive inspections to ensure that the oxygen masks, hoses, and lanyards do not bind in the PSU door. The repetitive cleaning and inspections would extend the time to install new PSU dust seals.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Request To Provide Interim Actions

Two commenters request that the proposed AD be revised to provide interim actions that would extend the compliance time to install new dust seals. The commenters state that, once a seal is removed from the airplane, and the PSU panel is periodically cleaned of accumulated dust and lint, the potential fire source from the affected seal no longer exists. The commenters suggest a compliance time of 6 months to initiate the interim actions, a repetitive interval of 14 months, and a compliance time of 5 years to replace the seal—based on the availability of materials, manpower, and maintenance facilities.

The FAA partially concurs. The FAA agrees that, once the affected dust seals are removed from the airplane, the potential fire source from the seals no longer exists. However, the accumulation of dust and lint on the oxygen canister and within the PSU panel may create another fire source, which would be minimized or mitigated by the installation of new dust seals. The FAA finds that repetitive cleaning and inspections are acceptable for a period of time, but reliance on these interim repetitive actions to provide an adequate degree of safety for the fleet over a 5-year period is not appropriate.

In determining the appropriate compliance time for the interim actions, the FAA considered the compliance time for the entire replacement action, as proposed, which indicated that no action is necessary for 24 months. Earlier inspections (e.g., at 6 months as the commenter suggests) are therefore unnecessary.

In determining the appropriate compliance time for the seal replacement, the FAA considered additional relevant factors. Certain airplanes affected by this AD are also subject to the requirements of AD 2000–11–01, amendment 39–11749 (65 FR 34322, May 26, 2000), which requires replacement of certain insulation blankets within 5 years. The FAA considers that replacing the insulation blankets and the dust seals concurrently would greatly reduce the cost of accomplishing the actions separately. In addition, extending the compliance times for the seal replacement will provide additional time for operators to procure parts and schedule maintenance. In consideration of these factors, as well as the safety implications, parts availability, and maintenance schedules for timely accomplishment of the actions, the FAA finds it appropriate to require the seal installation within 42 months.

Under the provisions of the Administrative Procedure Act, changing the proposed AD to shorten the proposed compliance time and add new actions would necessitate that the FAA reissue the notice, reopen the period for public comment, consider any additional comments received, and eventually issue a final rule. The FAA has determined that further delay of this action is not appropriate. Therefore, this final rule has been revised to provide operators two options to comply with this AD:

1. Accomplish the entire replacement within 24 months, as proposed; or

2. Accomplish the replacement action in three separate actions by removing the seals (within 24 months) and repetitively cleaning and inspecting the area thereafter (at 14-month intervals) until the new seals are installed (within 42 months).

Support for the Proposal

One commenter, an operator, generally supports the proposal but offers an estimate of the cost impact on its fleet. The commenter states that replacing the dust seal would take approximately 32 work hours per airplane, rather than 24 work hours as estimated in the proposed AD, and the required materials would cost approximately $1,500 per airplane, rather than $3,000 as previously estimated.

In light of this information, the FAA considers it appropriate to revise the cost estimates in the final rule.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 529 airplanes of the affected design in the worldwide fleet. The FAA estimates that 261 airplanes of U.S. registry will be affected by this AD.

It will take approximately 4 work hours per airplane to remove the dust seals, at an average labor rate of $60 per work hour. Based on these figures, the estimated cost impact to remove the seals is $240 per airplane.

It will take approximately 4 work hours per airplane to clean and inspect the PSU, at an average labor rate of $60 per work hour. Based on these figures, the estimated cost impact of the cleaning and inspection is $240 per airplane, per inspection cycle.

It will take approximately 30 hours to install new dust seals, at an average labor rate of $60 per work hour. Required parts for the seal installation will cost approximately $1,500 per airplane. Based on these figures, the estimated cost impact of the seal installation is $3,300 per airplane.

The concurrent accomplishment of all seal replacement actions would result in a reduction in cost of approximately $240 per inspection cycle that would no longer be required.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44

FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2002–01–24 McDonnell Douglas: Amendment 39–12618. Docket 2000–NM–362–AD.

Applicability: Model DC–9–81, –82, –83, and –87 series airplanes, and Model MD–88 airplanes, as listed in Boeing Service Bulletin MD80–25–377, dated March 14, 2001; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To ensure replacement of dust seals of the lower passenger service unit (PSU) panel that may contribute to the spread of a fire when ignition occurs from electrical arcing of a failed light holder assembly, which could cause damage to adjacent structure and smoke emitting from the PSU panel into the passenger cabin, accomplish the following:

Replacement of Dust Seals

(a) Do the actions specified by either paragraph (a)(1) or (a)(2) of this AD.

(1) Within 24 months after the effective date of this AD, replace dust seals of the PSU panels of the overhead stowage compartment with new dust seals (including removing adhesive, cleaning the PSU rail, and removing/installing tape), per Boeing Service Bulletin MD80–25–377, dated March 14, 2001, or Revision 01, dated July 17, 2001. After the effective date of this AD, only Revision 01 of the service bulletin may be used.

(2) At the applicable times, do the actions specified by paragraphs (a)(2)(i), (a)(2)(ii), and (a)(2)(iii) of this AD.

(i) Within 24 months after the effective date of this AD, remove all the lower dust seals having part number (P/N) CD1149 (any configuration) from the left and right outboard PSU panels from station Y = 218.000 to Y = 1307.000, per Boeing Alert Service Bulletin MD80–25A376, dated September 21, 2000.

(ii) Within 24 months after the effective date of this AD, remove all visible traces of dust and dirt particles from the oxygen canisters installed in the PSU panels, and perform a general visual inspection to ensure that oxygen masks, hoses, and lanyards do not bind in the PSU door; per Boeing Alert Service Bulletin MD80–25A376, dated September 21, 2000. Thereafter, repeat the actions specified by paragraph (a)(2)(ii) of this AD at least every 14 months until the requirements of paragraph (a)(2)(iii) of this AD have been accomplished.

Note 2: For the purposes of this AD, a general visual inspection is defined as: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or drop-light, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

(iii) Within 42 months after the effective date of this AD, install new dust seals, part number (P/N) CD1437, of the PSU panels of the overhead stowage compartment, per Boeing Service Bulletin MD80–25–377, Revision 01, dated July 17, 2001. Installation of the new dust seals terminates the requirements of paragraph (a)(2)(ii) of this AD.

Note 3: Installation of the dust seal prior to the effective date of this AD in accordance with Boeing Service Bulletin MD80–25–377, dated March 14, 2001, is acceptable for compliance with the requirements of paragraph (a)(2)(iii) of this AD.

Spares

(b) As of the effective date of this AD, no person shall install a dust seal, P/N CD1149 (any configuration), on any airplane.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(e) The actions shall be done in accordance with Boeing Alert Service Bulletin MD80–25A376, dated September 21, 2000; Boeing Service Bulletin MD80–25–377, dated March 14, 2001; and Boeing Service Bulletin MD80–25–377, Revision 01, dated July 17, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(f) This amendment becomes effective on March 6, 2002.

Issued in Renton, Washington, on January 18, 2002.

Michael Kaszycki,

Acting Manager,Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–1961 Filed 1–29–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–112–AD; Amendment 39–12620; AD 2002–01–25]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model DHC–8–100, –200, and –300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Bombardier Model DHC–8–100, –200, and –300 series airplanes, that requires repetitive inspections of the rudder pedal adjustment fittings for cracks and replacement of cracked fittings with new fittings. This amendment also provides an optional terminating action. This action is necessary to detect and correct cracking of the rudder pedal adjustment fittings, which could lead to deformation of the fittings, resulting in jammed rudder pedals and loss of rudder control, with consequent reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective March 6, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 6, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Bombardier, Inc., Bombardier Regional Aircraft Division, 123 Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dan Parrillo, Aerospace Engineer, ANE–172, FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7505; fax (516) 568–2716.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Bombardier Model DHC–8–100, –200, and –300 series airplanes was published in the **Federal Register** on August 29, 2001 (66 FR 45653). That action proposed to require repetitive inspections of the rudder pedal adjustment fittings for cracks and replacement of cracked fittings with new fittings. That action also proposed to provide an optional terminating action.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Explanation of Changes Made to Proposed AD

The FAA has added a note, Note 2, to the final rule to clarify the definition of the detailed visual inspection required by paragraph (a) of this AD. Subsequent notes have been renumbered accordingly.

Also, we have changed paragraph (c) of this AD to clarify that only ''cracked'' fittings are required to be replaced.

Clarification of Terminating Action

Since the issuance of the notice of proposed rulemaking (NPRM), the FAA has also determined that the optional terminating action specified in paragraph (d) of the NPRM needs to be clarified. That paragraph states, ''Replacement of the rudder pedal adjustment fittings having P/N 82710038–101, with steel rudder pedal adjustment fittings having P/N 82710080–101, constitutes terminating action for the repetitive inspections required by paragraphs (a) and (b) of this AD.'' However, the inspection required by paragraph (a) of this AD is not a repetitive inspection. Additionally, it was our intent that operators may elect to accomplish the replacement in lieu of the inspections required by paragraphs (a) and (b) of this AD. Therefore, we have revised paragraph (d) of the final rule to state, ''Replacement of rudder pedal adjustment fittings having P/N 82710038–101, with steel rudder pedal adjustment fittings having P/N 82710080–101, constitutes terminating action for the requirements of this AD.''

Conclusion

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

The FAA estimates that 188 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $11,280, or $60 per airplane, per inspection cycle.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2002–01–25 Bombardier, Inc. (Formerly de Havilland, Inc.): Amendment 39–12620. Docket 2001–NM–112–AD.

Applicability: Model DHC–8–100, –200, and –300 series airplanes, serial numbers 003 to 563 inclusive, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct cracking of the rudder pedal adjustment fittings, which could lead to deformation of the fittings, resulting in jammed rudder pedals and loss of rudder control, with consequent reduced controllability of the airplane, accomplish the following:

Inspections

(a) Perform a detailed visual inspection of the rudder pedal adjustment fittings having part number (P/N) 82710038–101 for cracks, in accordance with Bombardier Alert Service Bulletin A8–27–91, dated September 12, 2000, or Revision A, dated November 23, 2000, at the times specified in paragraphs (a)(1) and (a)(2) of this AD.

(1) Within 5,000 flight hours since the date of manufacture of the airplane or 500 flight hours after the effective date of this AD, whichever occurs later; and

(2) Prior to further flight, whenever an instance of stiff operation or jamming of the rudder pedals occurs during flight.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

(b) If no crack is detected: Repeat the inspection of the rudder pedal adjustment fittings having P/N 82710038–101, in accordance with Bombardier Alert Service Bulletin A8–27–91, dated September 12, 2000, or Revision A, dated November 23, 2000, at intervals not to exceed 1,000 flight hours, until accomplishment of paragraph (d) of this AD.

Replacement

(c) If any crack is detected: Prior to further flight, replace the cracked rudder pedal adjustment fitting having P/N 82710038–101 with a new aluminum fitting having the same P/N (82710038–101), or with a steel fitting having P/N 82710080–101, in accordance with Bombardier Alert Service Bulletin A8–27–91, dated September 12, 2000, or Revision A, dated November 23, 2000.

Terminating Action

(d) Replacement of rudder pedal adjustment fittings having P/N 82710038–101, with steel rudder pedal adjustment fittings having P/N 82710080–101, constitutes terminating action for the requirements of this AD.

Alternative Methods of Compliance

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, New York Aircraft Certification Office, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

Special Flight Permits

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(g) The actions shall be done in accordance with Bombardier Alert Service Bulletin A8–27–91, dated September 12, 2000; or Bombardier Alert Service Bulletin A8–27–91, Revision A, dated November 23, 2000. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Bombardier, Inc., Bombardier Regional Aircraft Division, 123 Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 4: The subject of this AD is addressed in Canadian airworthiness directive CF–2001–04, dated January 25, 2001.

Effective Date

(h) This amendment becomes effective on March 6, 2002.

Issued in Renton, Washington, on January 18, 2002.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–1962 Filed 1–29–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–128–AD; Amendment 39–12613; AD 2002–01–19]

RIN 2120–AA64

Airworthiness Directives; Fokker Model F.28 Mark 0070 and 0100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Fokker Model F.28 Mark 0070 and 0100 series airplanes, that requires repetitive operational tests for discrepancies of the heating system of pitot tube #1, and replacement of the pitot tube, if necessary. This AD also requires eventual modification of the alternating current sensing circuit for pitot tube #1, which terminates the repetitive operational test requirement. This action is necessary to prevent failure of the heating system of pitot tube #1 due to a short circuit, which may go undetected and lead to the pilot receiving erroneous airspeed indications, resulting in reduced control of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective March 6, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 6, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Fokker Services B.V., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, FAA,

Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1137; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Fokker Model F.28 Mark 0070 and 0100 series airplanes was published in the **Federal Register** on November 5, 2001 (66 FR 55896). That action proposed to require repetitive operational tests for discrepancies of the heating system of pitot tube #1, and replacement of the pitot tube, if necessary. That action also proposed to require eventual modification of the alternating current sensing circuit for pitot tube #1, which would terminate the repetitive operational test requirement.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 129 airplanes of U.S. registry will be affected by this AD.

It will take approximately 1 work hour per airplane to accomplish the required operational test, at the average labor rate of $60 per work hour. Based on these figures, the cost impact of the operational test required by this AD on U.S. operators is estimated to be $7,740, or $60 per airplane, per test cycle.

It will take approximately 34 work hours per airplane to accomplish the required modification, at the average labor rate of $60 per work hour. Required parts will cost approximately $350 per airplane. Based on these figures, the cost impact of the modification required by this AD on U.S. operators is estimated to be $308,310, or $2,390 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2002–01–19 Fokker Services B.V.: Amendment 39–12613. Docket 2001–NM–128–AD.

Applicability: Model F.28 Mark 0070 and 0100 series airplanes, serial numbers 11244 through 11585 inclusive, on which Fokker Service Bulletin SBF100–30–019 or SBF100–30–020 has been accomplished, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the heating system of pitot tube ı1 due to a short circuit, which may go undetected and lead to the pilot receiving erroneous airspeed indications, resulting in reduced control of the airplane, accomplish the following:

Operational Test

(a) Within 3 months after the effective date of this AD, do an operational test for discrepancies (i.e., correct functioning) of the heating system of pitot tube ı1, according to Fokker Service Bulletin SBF100–30–025, Revision 1, dated March 14, 2001. Repeat the operational test every 12 months, until paragraph (d) of this AD has been done.

Replacement of Pitot Tube

(b) If any discrepancy is found during the operational test required by paragraph (a) of this AD: Before further flight, replace pitot tube ı1 with a new pitot tube, according to Fokker Service Bulletin SBF100–30–025, Revision 1, dated March 14, 2001.

Reporting Requirement

(c) At the applicable time specified in paragraph (c)(1) or (c)(2) of this AD: Use page 38 of Fokker Service Bulletin SBF100–30–025, Revision 1, dated March 14, 2001, to submit a report of findings from each operational test (both positive and negative) to Fokker Services B.V., Attn: Manager Airline Support, P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

(1) For airplanes on which the operational test is accomplished after the effective date of this AD: Submit the report within 5 days after performing the test required by paragraph (a) of this AD.

(2) For airplanes on which the operational test is accomplished before the effective date of this AD: Submit the report within 5 days after the effective date of this AD.

Modification

(d) Within 36 months after the effective date of this AD, modify the alternating current (AC) sensing circuit for pitot tube #1 (including removing the supply current wire from the AC current sensor for the pitot tube, removing the wire that grounds the heating system of pitot tube #1, installing the supply

current wire to the inverter, installing the return current wire from pitot tube #1 to the AC current sensor, and grounding the AC current sensor), according to Fokker Service Bulletin SBF100–30–025, Revision 1, dated March 14, 2001. Such modification terminates the repetitive operational tests required by paragraph (a) of this AD.

Alternative Methods of Compliance

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(f) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(g) The actions shall be done in accordance with Fokker Service Bulletin SBF100–30–025, Revision 1, dated March 14, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Fokker Services B.V., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(h) This amendment becomes effective on March 6, 2002.

Issued in Renton, Washington, on January 17, 2002.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–1963 Filed 1–29–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–382–AD; Amendment 39–12617; AD 2002–01–23]

RIN 2120–AA64

Airworthiness Directives; Raytheon Model Beech 400, 400A, and 400T Series Airplanes; Model Beech MU–300–10 Airplanes; and Model Mitsubishi MU–300 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Raytheon Model Beech 400, 400A, and 400T series airplanes; Model Beech MU–300–10 airplanes; and Model Mitsubishi MU–300 airplanes. This action requires repetitive inspections to detect cracking in the radius of the cutout of the aft flange of the left engine forward carry-through mount bracket, and replacement with a new bracket and fitting if necessary. This action is necessary to prevent failure of the engine mount and possible loss of the engine, and consequent loss of control of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective February 14, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 14, 2002.

Comments for inclusion in the Rules Docket must be received on or before April 1, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001-NM–382-AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-iarcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2001-NM–382-AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in this AD may be obtained from Raytheon Aircraft Company, Department 62, P.O. Box 85, Wichita, Kansas 67201–0085. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: David Ostrodka, Senior Aerospace Engineer, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4129; fax (316) 946–4407.

SUPPLEMENTARY INFORMATION: The FAA has been advised that certain engine mounts on affected airplanes have developed cracks. One operator discovered cracking during a routine inspection on the aft flange of the left engine forward carry-through mount bracket. Additional airplanes were subsequently inspected, and cracking was discovered in the same location on four airplanes. At the time of the crack findings, all of those airplanes had accumulated between 2,000 and 3,000 total flight hours, and all were equipped with thrust reversers. The cracks originate in the radius of the cutout of the aft flange of the engine mount brackets. The purpose of the cutout is to provide clearance for certain engine components. Because all of these airplanes were equipped with thrust reversers, it was initially determined that the condition would be found only on airplanes with thrust reversers. However, similar cracking was later discovered on a number of airplanes without thrust reversers. The cause of the cracking has not been determined. This condition, if not corrected, could result in failure of the engine mount and possible loss of the engine, and consequent loss of control of the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved Raytheon Safety Communiqué No. 189, Revision 1, dated January 2002, which describes procedures for a one-time visual inspection to detect evidence of cracking of the left engine forward carry-through mount bracket, and a subsequent one-time fluorescent penetrant inspection to detect cracking

in the same area. The communiqué recommends immediate replacement of any cracked bracket with a new bracket and fitting.

Explanation of the Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other Raytheon Model Beech 400, 400A, and 400T series airplanes; Model Beech MU–300–10 airplanes; and Model Mitsubishi MU–300 airplanes of the same type design, this AD is being issued to prevent failure of the engine mount and possible loss of the engine, and consequent loss of control of the airplane. This AD requires repetitive inspections to detect cracking in the radius of the cutout of the aft flange of the left engine forward carry-through mount bracket, and replacement with a new bracket and fitting if necessary. The actions are required to be accomplished in accordance with the service information described previously, except as discussed below.

Requirements for Ferry Flight Permit

The FAA has determined that a ferry flight permit, if granted, must include certain limitations for airplanes equipped with thrust reversers, due to the increased loads and vibration levels associated with thrust reverser operation.

Differences Between AD and Relevant Service Information

The applicability of this AD and the manufacturer's Safety Communiqué No. 189 are identical with the exception of one serial number. For Beech MU–300–10 airplanes, the communiqué specifies serial numbers A1001SA through 1010SA inclusive. The type certification data sheet for this model specifies A1011SA as the last serial number. The FAA assumes serial number A1011SA may have been converted to a different model and reidentified and therefore has determined that it is necessary to include serial number A1011SA in the applicability of this AD to ensure the inclusion of all airplanes subject to the identified unsafe condition.

In addition, Safety Communiqué No. 189 recommends inspection of the subject area via a one-time visual inspection within 25 flight hours (for airplanes with more than 1,500 total flight hours) and a one-time fluorescent penetrant inspection within 50 flight hours. However, in light of the potential severity of the unsafe condition and the uncertainty of the cause of the premature cracking, the FAA finds these recommendations inadequate to address the identified unsafe condition in a timely manner. The FAA has determined that a fluorescent penetrant inspection could detect cracking that a visual inspection might miss. Also, the FAA has determined that the initial inspection must be performed at the earlier of 14 days or 25 flight hours, and that the inspections must be repetitively performed, to timely detect cracking that could contribute to the unsafe condition.

In developing appropriate actions and compliance times for this AD, the FAA considered not only the manufacturer's recommendations, but the availability of parts, the average utilization of the affected fleet, the time necessary to perform an inspection (2 work hours), and the degree of urgency associated with addressing the identified unsafe condition. In light of all of these factors, the FAA finds initial and repetitive fluorescent penetrant inspections to be warranted, in that they will provide more detailed data, allow operators to detect cracking before it becomes a hazard to the structure, and provide the necessary continued operational safety for the fleet.

Interim Action

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the AD is being requested.
- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket 2001–NM–382–AD.'' The postcard will be date-stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2002–01–23 Raytheon Aircraft Company (Formerly Beech): Amendment 39–12617. Docket 2001–NM–382–AD.

Applicability: The following airplanes, certificated in any category:

TABLE 1.—APPLICABILITY

Model	Serial Numbers
Beech 400 series airplanes	RJ–1 through RJ–65 inclusive.
Beech 400A series airplanes	RK–1 and subsequent.
Beech 400T series airplanes	TT–1 through TT–180 inclusive.
Beech 400T–1 airplanes	TX–1 through TX–11 inclusive.
Beech MU–300–10 airplanes	A1001SA through A1011SA inclusive.
Mitsubishi MU–300 airplanes	A003SA through A091SA inclusive.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the engine mount and possible loss of the engine, and consequent loss of control of the airplane, accomplish the following:

Repetitive Inspections

(a) At the later of the times specified by paragraphs (a)(1) and (a)(2) of this AD: Perform a fluorescent penetrant inspection to detect cracking in the radius of the cutout of the aft flange of the left engine forward carry-through mount bracket, in accordance with Raytheon Safety Communiqué No. 189, Revision 1, dated January 2002. Repeat the inspection thereafter at least every 200 flight hours.

(1) Inspect prior to the accumulation of 1,500 total flight hours; or

(2) Inspect within 25 flight hours or 14 days after the effective date of this AD, whichever occurs first.

Note 2: Accomplishment of a fluorescent penetrant inspection before the effective date of this AD in accordance with Raytheon Safety Communiqué No. 189, dated November 2001, is acceptable for compliance with the requirements for the initial inspection of paragraph (a) of this AD; however, accomplishment of only a visual inspection is not acceptable.

Corrective Action

(b) If any cracking is detected during any inspection required by paragraph (a) of this AD: Prior to further flight, replace the cracked part with a new bracket and fitting in accordance with Raytheon Maintenance Manual, Chapter 54–40–00. The replacement parts are identified in Raytheon Safety Communiqué 189, dated November 2001, or Revision 1, dated January 2002.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Wichita Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO, FAA.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita ACO.

Special Flight Permits

(d) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished, provided the limitations specified by paragraphs (d)(1) and (d)(2) of this AD are included in the special flight permit.

(1) If any cracking is detected during any inspection required by paragraph (a) of this AD, but all cracks are less than one inch in length: Operation of the airplane is permitted to the nearest repair facility, provided the thrust reversers (if installed) are pinned or deactivated during operation.

(2) If a crack of one inch or longer is detected during any inspection required by paragraph (a) of this AD: Operation of the airplane is permitted to the nearest repair facility provided a temporary repair is first accomplished in accordance with a method approved by the Manager, Wichita ACO.

Incorporation by Reference

(e) Except as required by paragraph (b) of this AD: The actions must be done in accordance with Raytheon Safety Communiqué No. 189, Revision 1, dated January 2002. (Only page 1 of this document is dated; no other page contains this information.) This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Raytheon Aircraft Company, Department 62, P.O. Box 85, Wichita, Kansas 67201–0085. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(f) This amendment becomes effective on February 14, 2002.

Issued in Renton, Washington, on January 18, 2002.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–1965 Filed 1–29–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–ANE–17–AD; Amendment 39–12622; AD 2002–01–27]

RIN 2120–AA64

Airworthiness Directives; General Electric Company GE90 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), that is applicable to General Electric Company (GE) GE90–76B, –77B, –85B, –90B, and –92B model turbofan engines. That AD currently requires initial and repetitive eddy current inspections (ECI) for cracks in the high pressure compressor (HPC) stage 2–6 spool, and, if necessary, replacement with serviceable parts. That amendment was prompted by reports of cracks in the stage 3–4 and stage 4–5 interstage seal teeth and spacer arms. This amendment deletes reference to the GE90–92B engine model, deletes reference to HPC spool part number (P/N) 350–005–769–0 and directs the removal from service of affected part number spools by either engine cycles or calendar date, whichever occurs first. This amendment is prompted by the introduction of a new design HPC stage 2–6 spool and four additional HPC stage 2–6 spool P/N's that are terminating action for the repetitive inspection requirements for certain P/N spools. The actions specified by this AD are intended to prevent failure of the HPC stage 2–6 spool due to cracks, which could result in an uncontained engine failure and damage to the airplane.

DATES: Effective February 14, 2002. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of February 14, 2002.

Comments for inclusion in the Rules Docket must be received on or before April 1, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–ANE–17–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may be inspected at this location, by appointment, between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Comments may also be sent via the Internet using the following address: ''9-ane-adcomment@faa.gov''. Comments sent via the Internet must contain the docket number in the subject line.

The service information referenced in this AD may be obtained from General Electric Technical Services, Attention: Leader for distribution/microfilm, 10525 Chester Road, Cincinnati, OH 45215; telephone (513) 672–8400 Ext. 130, fax (513) 672–8422. This information may be examined, by appointment, at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ian Dargin, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7178, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: On July 6, 1998, the Federal Aviation Administration (FAA) issued airworthiness directive (AD) 98–15–03, Amendment 39–10654 (63 FR 37761, July 14, 1998), to require:

- Initial and repetitive eddy current inspection (ECI) for cracks in the high pressure compressor (HPC) stage 2–6 spool spacer arms, forward and aft of the stage 3–4 and stage 4–5 interstage seal teeth, and, if necessary, replacement with serviceable parts.
- A shop level ECI for cracks in the HPC stage 2–6 spool interstage seal teeth, and, if necessary, replacement with serviceable parts.

That action was prompted by reports of cracked HPC stage 2–6 spools installed on General Electric Company (GE) GE90–76B, –77B, –85B, –90B, and –92B model turbofan engines. That condition, if not corrected, could result in failure of the HPC stage 2–6 spool due to cracks, which could result in an uncontained engine failure and damage to the airplane.

Since that AD was issued, the FAA has determined that either of the inspection methods required by the current AD may be used to satisfy either inspection requirement if done in accordance with the applicable Service Bulletins. Furthermore, certain spools have been approved as terminating the need for continuing inspections. Lastly, the FAA has determined that the affected spools are required to be removed from service no later than a specified number of engine cycles or by June 30, 2005, whichever occurs first.

The manufacturer has confirmed the design integrity of two of the spools affected by the current AD, P/N 350–005–770–0 (except for SN LAO37677) and P/N 350–005–771–0. Based on additional test and analysis, these spools need no further inspection. In addition, the manufacturer has introduced a new design HPC stage 2–6 spool, P/N 350–005–780–0 and a repair procedure which creates two other spools part numbers, P/N 350–005–775–0 and P/N 350–005–776–0. With spools having any of these five part numbers installed, this AD will no longer apply to the engine, terminating the requirement for additional inspections. Also, reference to the GE90–92B model is removed from the AD applicability because the manufacturer has informed the FAA that no engines of that model were produced and has requested the FAA remove this model designation from the GE90 Type Certificate. In addition, HPC spool P/N 350–005–769–0 is deleted since the manufacturer has informed the FAA that this P/N spool has never been produced and will not be produced.

Manufacturer's Service Information

The FAA has reviewed and approved the technical contents of GE Service Bulletin No. GE90 S/B 72–0352, Revision 4, dated July 31, 2000, that describes ECI procedures for cracks in the HPC stage 2–6 spool interstage seal teeth, and GE Alert Service Bulletin (ASB) No. GE90 72–A0357, Revision 4, dated July 31, 2000, that describes procedures for ECI for cracks in the HPC stage 2–6 spool spacer arm, forward and aft of the stage 3–4 and stage 4–5 interstage seal teeth. This ASB also removes the inspection requirement for HPC spools P/N 350–005–770–0 (except for S/N LAO37677) and P/N 350–005–771–0.

FAA's Determination of an Unsafe Condition and Required Actions

Although none of these affected engine models are used on any airplanes that are registered in the United States, the possibility exists that the engine models could be used on airplanes that are registered in the United States in the future. Since an unsafe condition has been identified that is likely to exist or develop on other GE90 series turbofan engines of this same type design, this AD is being issued to prevent failure of the HPC stage 2–6 spool due to cracks, which could result in an uncontained engine failure and damage to the airplane. This AD requires:

- Initial and repetitive ECI for cracks in the HPC stage 2–6 spool spacer arms, forward and aft of the stage 3–4 and

stage 4–5 interstage seal teeth, and, if necessary, replacement with a serviceable part.

• A shop level ECI for cracks in the HPC stage 2–6 spool interstage seal teeth, and, if necessary, replacement with serviceable parts.

• Removal of affected part number HPC stage 2–6 spools from service based on either engine cycles or calendar date, whichever occurs first.

The actions must be done in accordance with the service bulletins described previously.

Immediate Adoption of This AD

Since there are currently no domestic operators of these engine models, notice and opportunity for prior public comment are unnecessary. Therefore, a situation exists that allows the immediate adoption of this regulation.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 98–ANE–17–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Analysis

This final rule does not have federalism implications, as defined in Executive Order 13132, because it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with state authorities prior to publication of this final rule.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–10654 (63 FR 37761, July 14, 1998), and by adding a new airworthiness directive, Amendment 39–12622, to read as follows:

2002–01–27 General Electric Company (GE): Amendment 39–12622. Docket No. 98–ANE–17–AD. Supersedes AD 98–15–03, Amendment 39–10654.

Applicability. This airworthiness directive (AD) is applicable to General Electric Company (GE) GE90–76B, –77B, —85B, and –90B turbofan engines, with high pressure compressor (HPC) stage 2–6 spools, part numbers (P/N's) 350–005–761–0, 350–005–765–0, and 350–005–770–0 (serial number (SN) LAO37677 only), installed. These engines are installed on, but not limited to, Boeing 777 airplanes.

Note 1: This AD applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (f) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance. Compliance with this AD is required as indicated, unless already done.

To prevent failure of the HPC stage 2–6 spool due to cracks, which could result in an uncontained engine failure and damage to the airplane, do the following:

(a) Perform initial and repetitive eddy current inspections (ECI) of the spacer arm, forward and aft of the stage 3–4 and 4–5 seal teeth, for cracks in accordance with the Accomplishment Instructions of GE Alert Service Bulletin (ASB) No. GE90 72–A0357, Revision 4, dated July 31, 2000, as follows:

(1) Perform the initial inspection before exceeding 500 cycles-since-new (CSN).

(2) Thereafter, inspect at intervals not to exceed 250 cycles-in-service since last inspection.

(3) Remove the spool from the engine if the ECI reveals a crack indication and replace with a serviceable spool before returning the engine to service.

(4) Inspections required by this paragraph may be performed using an ECI for cracks in the HPC stage 2–6 spool interstage seal teeth in accordance with GE Service Bulletin (SB) No. GE90 S/B 72–0352, Revision 4, dated July 31, 2000.

(b) At each shop visit as defined in paragraph (e) of this AD, perform ECI for cracks in the HPC stage 2–6 spool interstage seal teeth in accordance with the Accomplishment Instructions of GE SB No. GE90 S/B 72–0352, Revision 4, dated July 31, 2000.

(1) Replace spools with a crack indication with a serviceable spool before returning the engine to service.

(2) If the HPC stage 2–6 spool is not exposed, the inspection required by this paragraph may be performed using an ECI for cracks in the HPC spacer arm, forward and aft of the stage 3–4 and 4–5 seal teeth, in accordance with the Accomplishment Instructions of GE ASB No. GE90 72–A0357, Revision 4, dated July 31, 2000.

(c) Remove from service HPC stage 2–6 spools, P/N 350–005–761–0, 350–005–765–0 and 350–005–770–0 (SN LAO37677 only), before accumulating 4,800 CSN for spools on the GE90–76B and –77B engine models and 4,600 CSN for spools on the GE90–85B and the –90B engine models, or by June 30, 2005, whichever occurs first.

Credit for Previous Inspections

(d) Inspections performed before the effective date of this AD using the following SB's may be counted toward satisfying the initial and repetitive inspection requirements of paragraph (a) of this AD:

(1) Inspections completed using GE ASB No. GE90 72–A0357, Revision 2, dated April 21, 1998; or Revision 3, dated October 27, 1999.

(2) Inspections completed during shop visits using GE SB No. GE90 S/B 72–0352, Revision 2, dated March 31, 1998; or Revision 3, dated July 12, 1999.

Definitions

(e) For the purpose of this AD, an engine shop visit is defined as any time an engine has maintenance performed that involves separation of a major engine flange (such as removal of a low pressure turbine module or HPC ''top case''). However, the replacement of the stage 3 and 4 variable stator vane bushings and sealing flanges using GE SB No. GE90 S/B 72–0537, dated June 22, 2001 is not considered a shop visit.

Alternative Methods of Compliance

(f) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office (ECO). Operators must submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, ECO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the ECO.

Special Flight Permits

(g) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be done.

Documents That Have Been Incorporated By Reference

(h) The inspection must be done in accordance with the following General Electric Company GE90 Service Bulletin (SB) and Alert Service Bulletin (ASB):

Document No.	Pages	Revision	Date
SB GE90 S/B 72–0352 ..... Total pages: 33	All	4	July 31, 2000.
ASB GE90 72–A0357 ..... Total pages: 30	All	4	July 31, 2000.

These incorporations by reference were approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from General Electric Technical Services, Attention: Leader for distribution/microfilm, 10525 Chester Road, Cincinnati, OH 45215; telephone (513) 672–8400 Ext. 130, fax (513) 672–8422. Copies may be inspected, by appointment, at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(i) This amendment becomes effective on February 14, 2002.

Issued in Burlington, Massachusetts, on January 18, 2002.

Thomas A. Boudreau,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 02–1984 Filed 1–29–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NE–50–AD; Amendment 39–12623; AD 2002–01–28]

RIN 2120–AA64

Airworthiness Directives; Dowty Aerospace Propellers Type R334/4–82–F/13 Propeller Assemblies

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to Dowty Aerospace Propellers Type R334/4–82–F/13 with propeller hub assemblies, part number (P/N) 660709201. This action requires a one-time ultrasonic inspection of the propeller hub for cracks. This amendment is prompted by a report of an in-flight loss of a propeller. The actions specified in this AD are intended to prevent propeller hub failure due to cracks in the hub, which could result in loss of control of the airplane.

DATES: Effective February 14, 2002. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of February 14, 2002.

Comments for inclusion in the Rules Docket must be received on or before April 1, 2002.

ADDRESSES: Submit comments to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–NE–50–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may be inspected at this location, by appointment, between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Comments may also be sent via the Internet using the following address: ''*9-ane-adcomment@faa.gov*''.

The service information referenced in this AD may be obtained from Dowty Propellers, Anson Business Park, Cheltenham Road East, Gloucester GL2 9QN, UK; telephone 44 (0) 1452 716000; fax 44 (0) 1452 716001. This information may be examined, by appointment, at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Frank Walsh, Aerospace Engineer, Boston Aircraft Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7158; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom (UK), recently notified the FAA that an unsafe condition may exist on Dowty Aerospace Propellers Type R334/4–82–F/13 with propeller hub assemblies, P/N 660709201. On September 23, 2001, a complete R334/4–82–F/13 propeller separated from the engine flange on a Construcciones Aeronauticas, S.A. (CASA) 212 airplane. Laboratory analysis of the retained portion of the hub indicated that fatigue cracks had emanated from multiple origins in five of the eight insert bolt hole locations of the rear half of the hub wall. These fatigue cracks propagated outward in a radial direction relative to the axis of the threaded insert. The fatigue cracks then intersected the spigot diameter and the center bore hole of the hub. The remainder of the hub fracture resulted from fatigue cracks

propagating circumferential to hub failure and release. The CAA also advised the FAA that the CAA received a report of a similar incident on another CASA airplane. The incident date was not provided, but the CAA indicated that it was within the past 1 ½ to 2 year period.

Manufacturer's Service Information

Dowty Aerospace Propellers has issued Service Bulletin (SB) No. 61–1119, Revision 2, dated December 6, 2001, that specifies procedures for ultrasonic inspection of the rear wall of the rear half of the propeller hub for cracks. The CAA classified this service bulletin as mandatory and issued CAA UK AD No. 003–11–2001, dated November 30, 2001, in order to assure the airworthiness of these Dowty Aerospace Propellers in the UK.

Differences Between This AD and the Manufacturer's Service Information

Although Appendix A of Dowty Aerospace Propellers SB No. 61–1119, Revision 2, dated December 6, 2001, requires reporting the inspection data to Dowty Aerospace Propellers, this AD requires that the data be reported to the Boston Aircraft Certification Office of the FAA.

Bilateral Airworthiness Agreement

This propeller model is manufactured in the UK and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, has reviewed all available information, and has determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

FAA's Determination of an Unsafe Condition and Required Actions

Since an unsafe condition has been identified that is likely to exist or develop on other Dowty Aerospace Propellers Type R334/4–82–F/13 with propeller hub assemblies, P/N 660709201, this AD is being issued to prevent propeller hub failure due to cracks in the hub, which could result in loss of control of the airplane. This AD requires a one-time ultrasonic inspection of the rear wall of the rear half of the propeller hub for cracks. The actions must be done in accordance with the service bulletin described previously.

Immediate Adoption of This AD

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** Comments sent via the Internet must contain the docket number in the subject line. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2001–NE–50–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Analysis

This final rule does not have federalism implications, as defined in Executive Order 13132, because it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with state authorities prior to publication of this final rule.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2002–01–28 Dowty Aerospace Propellers: Amendment 39–12623. Docket No. 2001–NE–50–AD.

Applicability

This airworthiness directive (AD) is applicable to Dowty Aerospace Propellers, Type R334/4–82–F/13, with propeller hub assemblies, part number (P/N) 660709201. These propeller hub assemblies are installed on, but not limited to, Construcciones Aeronauticas, S.A. (CASA) 212 airplanes.

Note 1: This AD applies to each propeller identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For propellers that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of

the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance

Compliance with this AD is required as indicated, unless already done.

To prevent propeller hub failure due to cracks in the hub, which could result in loss of control of the airplane, do the following:

Hub Inspection

(a) Within 50 flight hours time-in-service (TIS) after the effective date of this AD, or within 60 days after the effective date of this AD, whichever occurs earlier, perform an ultrasonic inspection of the rear wall of the rear half of the propeller hub for cracks in accordance with Appendix A of Dowty Aerospace Propellers Service Bulletin (SB) No. 61–1119, Revision 2, dated December 6, 2001.

Inspection Reporting Requirements

(b) Record the initial inspection data on a copy of Appendix B, of Dowty Aerospace Propellers SB No. 61–1119, Revision 2, dated December 6, 2001, and report the findings to the Manager, Boston Aircraft Certification Office (ACO), FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299 within 10 days after the inspection. Reporting requirements have been approved by the Office of Management and Budget (OMB) and assigned OMB control number 2120–0056.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Boston ACO. Operators must submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Boston ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Boston ACO.

Special Flight Permits

(d) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be done.

Documents That Have Been Incorporated By Reference

(e) The inspection must be done in accordance with the following Dowty Aerospace Propellers service bulletin (SB):

Document No.	Pages	Revision	Date
SB No. 61–1119	1–2	2	December 6, 2001
Appendix A	1	1	November 27, 2001.
	2	Original	November 1, 2001.
	3–6	1	November 27, 2001.
Appendix B	All	Original	November 1, 2001.
Appendix C	All	Original	November 27, 2001.
Appendix D	All	Original	December 6, 2001.
Total pages: 29			

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Dowty Propellers, Anson Business Park, Cheltenham Road East, Gloucester GL2 9QN, UK; telephone 44 (0) 1452 716000; fax 44 (0) 1452 716001. This information may be examined, by appointment, at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in Civil Aviation Authority airworthiness directive AD 003–11–2001 dated November 30, 2001.

(f) This amendment becomes effective on February 14, 2002.

Issued in Burlington, Massachusetts, on January 18, 2002.

Thomas A. Boudreau,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 02–1983 Filed 1–29–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

RIN 0720–AA61

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Enhancement of Dental Benefits Under the TRICARE Retiree Dental Program

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: This final rule implements section 704 of the National Defense Authorization Act for Fiscal Year 2000, to allow additional benefits under the retiree dental insurance plan for Uniformed Services retirees and their family members that may be comparable to those under the Dependents Dental Program.

EFFECTIVE DATE: This final rule is effective October 1, 2000.

ADDRESSES: TRICARE Management Activity (TMA), Special Contracts and Operations Office, 16401 East Centretech Parkway, Aurora, CO 80011–9043.

FOR FURTHER INFORMATION CONTACT: Linda Winter, Special Contracts and Operations Office, TMA, (303) 676–3682.

SUPPLEMENTARY INFORMATION:

I. Background

A. Congressional Action

The TRICARE Retiree Dental Program (TRDP), a voluntary dental insurance plan completely funded by enrollees' premiums, was implemented in 1998 to provide benefits for basic dental care and treatment based on the authority of 10 U.S.C. 1076c. Under the enabling legislation, the benefits that could be provided were limited to ''basic dental care and treatment, involving diagnostic services, preventative services, basic restorative services (including endodontics), surgical services, and emergency services.'' Accordingly, the implementing regulation, 32 CFR 199.22, limited coverage to the most common dental procedures necessary for maintenance of good dental health and did not include coverage of major restorative services, prosthodontics, orthodontics or other procedures considered to be outside of the ''basic dental care and treatment'' range.

In section 704 of the National Defense Authorization Act for Fiscal Year 2000, Pub. L. 106–065, Congress responded to concerns that the enabling legislation was too restrictive in the range of benefits authorized by amending 10 U.S.C. 1076c to allow the Secretary of Defense to offer additional coverage.

Under provisions of the amendment, the TRDP benefits may now be ''comparable to the benefits authorized under section 1076a'' of title 10, the Dependents Dental Plan, commonly known as the TRICARE Family Member Dental Plan. Thus, in addition to the original basic services described above, which continue to be mandated, coverage of ''orthodontic services, crowns, gold fillings, bridges, complete or partial dentures, and such other services as the Secretary of Defense considers to be appropriate'' [10 U.S.C. 1076a(d)(3)] may be covered by the TRDP.

B. Public Comments

On August 14, 2000, an interim final rule was published (65 FR 49491) to allow the additional dental coverage and address the administrative and operational issues associated with the enhanced TRDP benefits. No public comments were received.

II. Provisions of the Rule for Enhancement of TRDP Benefits

A. Primary Provisions of the Interim Final Rule

The interim final rule allows expansion of the TRDP benefits to be comparable to the coverage under Active Duty Dental Plan at 32 CFR 199.13, commonly known as the TRICARE Family Member Dental Plan. It maintains the original basic TRDP coverage, with the original initial and renewal enrollment periods, until contractual arrangements are in place for the additional benefits. Enrollment in the original basic plan will be superseded by enrollment in the enhanced plan. Effective with the implementation of an enhanced plan, new enrollments for basic coverage cease. Enrollees in the basic plan at that time may continue their enrollment for basic coverage, subject to the applicable premium and eligibility provisions, as long as the contract administering that coverage is in effect. Enrollees in the basic plan have an enrollment option at the time of the enhanced plan's implementation.

B. Other Provisions of the Interim Final Rule

One of the aims of the interim final rule was to allow flexibility in the design of an enhanced benefit structure to help keep the increase in premiums within a reasonable range with the addition of the major dental coverage. This takes into account the increase in premiums not only for the increased benefits but the potential increase due to the risk of adverse selection. Adverse selection is the tendency for people who have a greater-than-average likelihood of needing treatment to seek coverage more than those who have a lesser likelihood of needing treatment. Accordingly, the interim final rule provides for renewal enrollment periods of up to 12 months per period for the enhanced benefits, thereby allowing the risk to be spread over a greater period of time than the month-to-month continuing enrollment for the basic coverage. Renewal for the basic program continues to be on a monthly basis. To offset the longer renewal periods, the rule allows a flexibility in the initial enrollment period for the enhanced benefits by permitting it to be in the range of from 12 to 24 months, the exact length to be determined through contractual arrangement. The initial enrollment period for the basis program will continue to be 24 months.

In addition, the interim final rule allows the establishment of an alternative course of treatment policy as in the TFMDP, adds a provision for orthodontic lifetime maximum should an orthodontic benefit be offered, and removes the specific dollar limit on the non-orthodontic annual benefit maximum while retaining the requirement for an annual maximum benefit amount. These changes are being made to permit more flexibility in the design and implementation of an enhanced TRDP benefit structure and allow ways to mitigate the increased risk for adverse selection and unacceptably high premiums that are likely to occur with the addition of major coverage.

Recognizing that occasionally some enrollees experience ''buyers's remorse'' shortly after enrolling in the program, this rule adds a 30-day grace period that allows new enrollees to terminate a TRDP enrollment immediately after enrollment provided no benefits have been used. This is consistent with the legislative mandate that the retiree dental plan be voluntary and provides enrollees an opportunity to further consider their dental needs before they are obligated for the initial enrollment period.

C. Provisions of the Final Rule

The final rule is consistent with the interim final rule.

III. Rulemaking Procedures

Executive Order 12866 requires certain regulatory assessments for any ''significant regulatory action,'' defined as one that would result in an annual effect on the economy of $100 million or more, or have other substantial impacts.

The Regulatory Flexibility Act (RFA) requires that each federal agency prepare, and make available for public comment, a regulatory flexibility analysis when the agency issues a regulation that would have a significant impact on a substantial number of small entities.

This rule has been designated as significant and has been reviewed by the Office Management and Budget as required under the provisions of E.O. 12866.

This rule will not impose additional information collection requirements on the public under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The TRICARE Retiree Dental Program Enrollment Form currently in use was approved in December 2001 and the approval expires December 2003.

List of Subjects in 32 CFR Part 199

Claims, Dental health, Health insurance, Individuals with disabilities, Military personnel.

Accordingly, 32 CFR 199 is amended as follows:

PART 199—[AMENDED]

1. The authority citation for Part 199 continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. chapter 55.

2. Section 199.22 is amended by revising paragraphs (b)(1) and (d)(4); revising paragraph (d)(5); revising paragraph (f) introductory text, introductory paragraph (f)(1), and paragraph (f)(2); revising paragraph (f)(3); and revising paragraph (g) to read as follows:

§ 199.22 TRICARE Retiree Dental Program (TRDP)

* * * * *

(b) * * * (1) At a minimum, benefits are the diagnostic services, preventive services, basic restorative services (including endodontics), oral surgery services, and emergency services specified in paragraph (f)(1) of this section. Additional services comparable to those contained in paragraph (e)(2) of § 199.13 may be covered pursuant to benefit policy decisions made by the Director, OCHAMPUS, or designee.

* * * * *

(d) * * *

(4) *Enrollment periods.*—(i) *Enrollment period for basic benefits.* The initial enrollment for the basic dental benefits described in paragraph (f)(1) of this section shall be for a period of 24 months followed by month-to-month enrollment as long as the

enrollee remains eligible and chooses to continue enrollment. An enrollee's disenrollment from the TRDP at any time for any reason, including termination for failure to pay premiums, is subject to a lockout period of 12 months. After any lockout period, eligible individuals may elect to reenroll and are subject to a new initial enrollment period. The enrollment periods and conditions stipulated in this paragraph apply only to the basic benefit coverage described in paragraph (f)(1) of this section. Effective with the implementation of an enhanced benefit program, new enrollments for basic coverage will cease. Enrollees in the basic program at that time may continue their enrollment for basic coverage, subject to the applicable provisions of this section, as long as the contract administering that coverage is in effect.

(ii) *Enrollment period for enhanced benefits.* The initial enrollment period for enhanced benefit coverage described in paragraph (f)(2) of this section shall be established by the Director, OCHAMPUS, or designee, when such coverage is offered, to be a period of not less than 12 months and not more than 24 months. The initial enrollment period shall be followed by renewal periods of up to 12 months as long as the enrollee chooses to continue enrollment and remains eligible. An enrollee's disenrollment from the TRDP during an enrollment period for any reason, including termination for failure to pay premiums, is subject to a lockout period of 12 months. This lockout provision does not apply to disenrollment during an enrollment grace period as defined in paragraph (d)(5)(ii) of this section or following completion of an initial or renewal enrollment period. Eligible individuals who elect to reenroll following a lockout period or a disenrollment after completion of an enrollment period are subject to a new initial enrollment period.

(5) *Termination of coverage.*—(i) *Involuntary termination.* TRDP coverage is terminated when the member's entitlement to retired pay is terminated, the member's status as a member of the Retired Reserve is terminated, a dependent child loses eligible child dependent status, or a surviving spouse remarries.

(ii) *Voluntary termination.* Regardless of the reason, TRDP coverage shall be canceled, or otherwise terminated, upon written request from an enrollee if the request is received by the TRDP contractor within thirty (30) calendar days following the enrollment effective date and there has been no use of TRDP benefits by the enrolled member, enrolled spouse, or enrolled dependents during that period. If such is the case, the enrollment is voided and all premium payments are refunded. However, use of benefits during this 30-day enrollment grace period constitutes acceptance by the enrollee of the enrollment and the enrollment period commitment. In this case, a request for voluntary disenrollment before the end of the initial enrollment period will not be honored, and premiums will not be refunded.

* * * * *

(f) *Plan benefits.* The Director, OCHAMPUS, or designee, may modify the services covered by the TRDP to the extent determined appropriate based on developments in common dental care practices and standard dental programs. In addition, the Director, OCHAMPUS, or designee, may establish such exclusions and limitations as are consistent with those established by dental insurance and prepayment plans to control utilization and quality of care for the services and items covered by the TRDP.

(1) *Basic benefits.* The minimum TRDP benefit is basic dental care to include diagnostic services, preventive services, basic restorative services (including endodontics), oral surgery services, and emergency services. The following is the minimum TRDP covered dental benefit (using the American Dental Association's The Council on Dental Care Program's Code on Dental Procedures and Nomenclature):

* * * * *

(2) *Enhanced benefits.* In addition to the minimum TRDP services in paragraph (f)(1) of this section, other services that are comparable to those contained in paragraph (e)(2) of § 199.13 may be covered pursuant to TRDP benefit policy decisions made by the Director, OCHAMPUS, or designee. In general, these include additional diagnostic and preventive services, major restorative services, prosthodontics (removable and fixed), additional oral surgery services, orthodontics, and additional adjunctive general services (including general anesthesia and intravenous sedation). Enrollees in the basis plan will be given an enrollment option at the time the enhanced plan is implemented.

(3) *Alternative course of treatment policy.* The Director, OCHAMPUS, or designee, may establish, in accordance with generally accepted dental benefit practices, an alternative course of treatment policy which provides reimbursement in instances where the dentist and TRDP enrollee select a more expensive service, procedure, or course of treatment than is customarily provided. The alternative course of treatment policy must meet the following conditions:

(i) The service, procedure, or course of treatment must be consistent with sound professional standards of generally accepted dental practice for the dental condition concerned.

(ii) The service, procedure, or course of treatment must be a generally accepted alternative for a service or procedure covered by the TRDP for the dental condition.

(iii) Payment for the alternative service or procedure may not exceed the lower of the prevailing limits for the alternative procedure, the prevailing limits or dental plan contractor's scheduled allowance for the otherwise authorized benefit procedure for which the alternative is substituted, or the actual charge for the alternative procedure.

(g) *Maximum coverage amounts.* Each enrollee is subject to an annual maximum coverage amount for non-orthodontic dental benefits and, if an orthodontic benefit is offered, a lifetime maximum coverage amount for orthodontics as established by the Director, OCHAMPUS, or designee.

* * * * *

Dated: January 24, 2002.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 02–2172 Filed 1–29–02; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP MIAMI–01–142]

RIN 2115–AA97

Security Zones; Hutchinson Island, St. Lucia, FL and Turkey Point Biscayne Bay, Florida City, FL

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary security zones around the Florida Power and Light Company power plants located at Hutchinson Island, Saint Lucia, Florida and Turkey Point, Florida City, Florida. These security zones are needed for national security reasons to protect the public and waterways from potential subversive acts. Entry into these zones

is prohibited, unless specifically authorized by the Captain of the Port, Miami, Florida or his designated representative.

DATES: This regulation is effective from 8 p.m. on December 10, 2001 through 11:59 p.m. on June 15, 2002.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of [COTP Miami 01–142] and are available for inspection or copying at Marine Safety Office Miami, 100 MacArthur Causeway, Miami Beach, FL 33319–6940 between 7:30 a.m. and 3 p.m. Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LT Warren Weedon, Coast Guard Marine Safety Office Miami, at (305) 535–4766.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM. Publishing a NPRM and delaying the rule's effective date would be contrary to the public interest since immediate action is needed to protect the public, ports and waterways of the United States. The Coast Guard will issue a broadcast notice to mariners and place Coast Guard vessels in the vicinity of these zones to advise mariners of the restriction.

For the same reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

Background and Purpose

Based on the September 11, 2001, terrorist attacks on the World Trade Center buildings in New York and the Pentagon in Arlington, Virginia, there is an increased risk that subversive activity could be launched by vessels or persons in close proximity to the Florida Power and Light Company power plants located at Hutchinson Island, Saint Lucia, Florida and Turkey Point, Florida City, Florida. The security zone area for Hutchinson Island includes all waters within lines connecting the following points: 27°21.20′ N, 080°16.26′ W; 27°19.18′ N, 080°15.21′ W; 27°20.36′ N, 080°12 83′ W; and 27°22.43′ N, 080°13.8′ W. The security zone area for Turkey Point includes all land and water within lines connecting the following points: 25°26.8′ N, 080°16.8′ W; 25°26.8′ N, 080°21′ W; 25°20′ N, 080°16.8′ W; and 25°20′ N, 080°20.4′ W.

There will be Coast Guard and local police department patrol vessels on scene to monitor traffic through these areas. Entry into these security zones is prohibited, unless specifically authorized by the Captain of the Port, Miami, Florida or his designated representative. During the period, the COTP may issue a Broadcast Notice to Mariners on VHF–FM Channels 16 and 22 (157.1 MHz) notifying mariners when they are allowed to temporarily enter the zone.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. The Office of Management and Budget has not reviewed it under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979) because these zones cover a limited area and vessels may be allowed to enter the zone with the permission of the Captain of the Port.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard considered whether this rule would have a significant economic effect upon a substantial number of small entities. ''Small entities'' include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities because small entities may be allowed to enter on a case by case basis with the authorization of the Captain of the Port.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. If the rule will affect your small business, organization, or government jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding this rule.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

Federalism

A rule has implication for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Environmental

The Coast Guard considered the environmental impact of this rule and concluded under Figure 2–1, paragraph 34(g) of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationships between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or use. We have determined that it is not a ''significant energy action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reports and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165, as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

2. A new temporary § 165.T07–142 is added to read as follows:

§ 165.T07–142 Security Zone; Hutchinson Island, St. Lucie, Florida and Turkey Point, Biscayne Bay, Florida City, Florida.

(a) *Regulated area.* The Coast Guard has established temporary security zones around the Saint Lucie and Turkey Point power plants. The security zone area for Hutchinson Island includes all waters within lines connecting the following points: 27°21.20′ N, 080°16.26′ W; 27°19.18′ N, 080°15.21′ W; 27°20.36′ N, 080°12.83′ W; and 27°22.43′ N, 080°13.8′ W. The security zone area for Turkey Point includes all land and water within lines connecting the following points: 25°26.8′ N, 080°16.8′ W; 25°26.8′ N, 080°21′ W; 25°20′ N, 080°16.8′ W; and 25°20′ N, 080°20.4′ W.

(b) *Regulations.* In accordance with the general regulations in § 165.33 of this part, entry into this zone is prohibited except as authorized by the Captain of the Port, or a Coast Guard commissioned, warrant, or petty officer designated by him. The COTP may issue a Broadcast Notice to Mariners on VHF–FM Channels 16 and 22 (157.1 MHz) notifying mariners when they are allowed to temporarily enter the zone. Law enforcement patrol boats will be on scene and may be contacted on channel 16 VHF/FM.

(c) *Dates.* This section is effective from 8 p.m. on December 10, 2001 through 11:59 p.m. on June 15, 2002.

(d) *Authority.* This section is promulgated under 33 U.S.C. 1226, 33 U.S.C. 1231, 33 CFR 1.05–(g) and 49 CFR 1.46.

Dated: December 10, 2001.

J. A. Watson, IV,

Captain, U.S. Coast Guard,Captain of the Port, Miami, Florida.

[FR Doc. 02–2210 Filed 1–29–02; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AK89

Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA)

AGENCY: Department of Veterans Affairs.

ACTION: Interim final rule.

SUMMARY: This rule implements provisions of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 and the Veterans' Survivor Benefits Improvements Act of 2001. These changes extend CHAMPVA eligibility to persons age 65 and over who would have otherwise lost their CHAMPVA eligibility due to attainment of entitlement to hospital insurance benefits under Medicare Part A. This rule also implements coverage of physical examinations required in connection with school enrollment for beneficiaries through age 17 and reduces the catastrophic cap for CHAMPVA dependents and survivors (per family) from $7,500 to $3,000 for each calendar year. These regulatory changes implement the statutory provisions.

DATES: *Effective Dates:* This document is effective on January 30, 2002; except for 38 CFR 17.271(b) and 17.272(a)(31)(x) which are effective October 1, 2001, and for 38 CFR 17.274(c) which is effective January 1, 2002.

Comment Date: Written comments must be received by VA on or before April 1, 2002.

ADDRESSES: Mail or hand-deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW, Room 1154, Washington, DC 20420; or fax comments to (202) 273–9289; or e-mail comments to *OGCRegulations@mail.va.gov.* Comments should indicate that they are submitted in response to ''RIN 2900–AK89.'' All comments received will be available for public inspection in the Office of Regulations Management, Room 1158, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: Susan Schmetzer, Chief, Policy & Compliance Division, VA Health Administration Center, P.O. Box 65020, Denver, CO 80206–9020, telephone (303) 331–7552.

SUPPLEMENTARY INFORMATION:

I. Overview of the Rule

CHAMPVA provides health care benefits to the dependents and survivors of veterans rated as 100% permanently and totally disabled from a service-connected condition; to the survivors of veterans who died from a service-connected medical condition; or to survivors of veterans who died in the line of duty and who are not otherwise covered under the TRICARE program.

On October 30, 2000, the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, Public Law 106–398, was enacted. On June 5, 2001, the Veterans' Survivor Benefits Improvements Act of 2001, Public Law 107–14, was enacted. This interim final rule implements these Acts for the CHAMPVA program. 38 U.S.C. 1713 requires CHAMPVA to provide the same or similar benefits as the DoD TRICARE program (formerly known as CHAMPUS).

II. CHAMPVA Eligibility for Individuals 65 Years of Age and Older

Prior to October 1, 2001, CHAMPVA coverage was terminated when a beneficiary became entitled to Part A of Medicare by virtue of becoming age 65. The age limitation for the provision of benefits was the same for TRICARE beneficiaries. Public Laws 106–398 and 107–14 eliminated the age limitation. The following is an explanation of the amended regulations implementing this statutory change.

CHAMPVA beneficiaries age 65 and older prior to June 5, 2001, regain eligibility effective October 1, 2001, for covered inpatient and outpatient benefits, secondary to Medicare and any other health insurance coverage. A beneficiary, who had Parts A and B of Medicare on June 5, 2001, must retain Part B to continue CHAMPVA eligibility. Beneficiaries age 65 on or after June 5, 2001, who are entitled to Medicare Part A must also be enrolled in Part B of Medicare to retain CHAMPVA eligibility effective October 1, 2001.

To be eligible, the individual must be a dependent, spouse or surviving spouse, age 65 or older, of a veteran who is rated 100% permanently and totally disabled from a service-connected condition; died of a service-connected medical condition; or died in active duty. The dependent, spouse or surviving spouse must not otherwise be eligible for benefits under the DoD TRICARE program. Benefits include specified medical services and supplies from authorized civilian sources such as hospitals, other authorized institutional providers, physicians, other authorized professional providers, professional ambulance services, prescription drugs, authorized medical supplies, and rental or purchase of durable medical equipment. Benefits do not include services and supplies for conditions that are expressly excluded from the CHAMPVA benefit by statute or regulation. There may be services that are payable under Medicare that are not payable under CHAMPVA; or conversely there may be benefits that are payable under CHAMPVA that are not payable under Medicare. However, many health care services and supplies are a benefit provided and paid for by both Medicare and CHAMPVA.

For all services and supplies, Medicare supplemental insurance plans or Medicare HMO plans are considered other health insurance and will pay prior to CHAMPVA. Cost sharing, deductible, and annual catastrophic cap requirements are applicable. Beneficiaries will continue to be responsible for payment of their applicable Medicare or CHAMPVA cost-share and deductible. For health care services for which payment may be made under both plans, CHAMPVA will pay up to the CHAMPVA allowable amount for the actual out-of-pocket costs incurred by the beneficiary over the sum paid by Medicare and the total of all amounts paid or payable by third party payers other than Medicare (such as other health insurance).

When a Medicare+Choice enrollee obtains unauthorized out-of-system care that Medicare+Choice will not cover or only partially cover, CHAMPVA will not process the claim as primary. This is because Medicare already paid for the health care the beneficiary needs in the form of a capitation payment to the Medicare+Choice plan. CHAMPVA will not become the primary payer for services that would have been covered by the Medicare+Choice plan had the beneficiary followed applicable requirements.

III. School-Required Physicals

Prior to October 1, 2001, CHAMPVA provided for routine physical examinations under the well-child care provisions for children from birth to age six. Public Law 106–398 extended the provision for school-required physicals for TRICARE dependent children to age 12. This rule extends coverage of school-required physical examinations to CHAMPVA eligible beneficiaries through age 17. We believe the small size of CHAMPVA's population under age 18, and the added potential for financial vulnerability for children of 100% permanently and totally disabled veterans or veterans who died of a service-connected condition, supports expanding this benefit to beneficiaries through age 17. Further, the costs required to support this benefit for all dependent children who are required to undergo a school physical is minimal since there are far fewer dependents in this age group than there are in TRICARE. The school-required physicals are subject to the applicable cost sharing and deductibles for all outpatient services.

IV. Reduction of Catastrophic Cap

Previously, for CHAMPVA, the catastrophic cap was $7,500 per calendar year, per family. Under this rule, the catastrophic cap on payments is reduced to $3,000, per calendar year, per family, for CHAMPVA eligible beneficiaries. The benefit is the same as that provided under Public Law 106–398 for the TRICARE program with the exception of the effective date. TRICARE computes the catastrophic cap based on a fiscal year (October through September of the following year) whereas CHAMPVA computes the catastrophic cap based on a calendar year. For this reason the effective date for CHAMPVA beneficiaries is January 1, 2002.

V. Regulatory Procedures

Administrative Procedure Act

The changes made by this interim final rule in large part reflect statutory changes. Moreover, we have found good cause to dispense with the notice-and-comment and delayed effective date provisions of the Administrative Procedure Act (5 U.S.C. 553). Compliance with such provisions would be impracticable, unnecessary, and contrary to the public interest. A delay in the establishment of the rule would result in significant delays in providing these increased benefits. Also, to avoid significant administrative confusion, it is in the public's interest to provide these benefits within approximately the same period as similar benefits are provided to DoD's TRICARE beneficiaries.

Paperwork Reduction Act

This interim final rule will not impose additional information collection requirements on the public under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3511).

Unfunded Mandates

The Unfunded Mandates Reform Act requires (in section 202) that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more in any given year. This rule would have no consequential effect on State, local, or tribal governments.

Executive Order 12866

This document has been reviewed by the Office of Management and Budget under Executive Order 12866.

Regulatory Flexibility Act

The Secretary hereby certifies that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. It is estimated that there are approximately 89,500 potential beneficiaries over age 65 that will use the benefit of coverage secondary to Medicare, approximately 2,000 beneficiaries impacted by the inclusion of school-required physical examination

benefit; and approximately 2,500 families benefiting from the reduction of the catastrophic cap. They are widely geographically diverse and the health care provided to them would not have a significant impact on any small businesses. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Catalog of Federal Domestic Assistance

There are no Catalog of Federal Domestic Assistance program numbers for the programs affected by this document.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs-health, Grant programs-veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Reporting and recordkeeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

Approved: November 21, 2001.

Anthony J. Principi,

Secretary of Veterans Affairs.

For the reasons set forth in the preamble, 38 CFR part 17 is amended as follows:

PART 17—MEDICAL

1. The authority citation for part 17 continues to read as follows:

Authority: 38 U.S.C. 501, 1721, unless otherwise noted.

2. In § 17.271, paragraphs (a) introductory text and (b) are revised to read as follows:

§ 17.271 Eligibility.

(a) *General Entitlement.* The following persons are eligible for CHAMPVA benefits provided that they are not eligible under Title 10 for the TRICARE Program or Part A of Title XVIII of the Social Security Act (Medicare) except as provided in paragraph (b) of this section.

* * * * *

(b) *CHAMPVA and Medicare entitlement.*

(1) Individuals under age 65 who are entitled to Medicare Part A and enrolled in Medicare Part B, retain CHAMPVA eligibility as secondary payer to Medicare Parts A and B, Medicare supplemental insurance plans, and Medicare HMO plans.

(2) Individuals age 65 or older, and not entitled to Medicare Part A, retain CHAMPVA eligibility.

Note to paragraph (b)(2): If the person is not eligible for Part A of Medicare, a Social Security Administration ''Notice of Disallowance'' certifying that fact must be submitted. Additionally, if the individual is entitled to only Part B of Medicare, but not Part A, or Part A through the Premium HI provisions, a copy of the individual's Medicare card or other official documentation noting this must be provided.

(3) Individuals age 65 on or after June 5, 2001, who are entitled to Medicare Part A and enrolled in Medicare Part B, are eligible for CHAMPVA as secondary payer to Medicare Parts A and B, Medicare supplemental insurance plans, and Medicare HMO plans for services received on or after October 1, 2001.

(4) Individuals age 65 or older prior to June 5, 2001, who are entitled to Medicare Part A and who have not purchased Medicare Part B, are eligible for CHAMPVA as secondary payer to Medicare Part A and any other health insurance for services received on or after October 1, 2001.

(5) Individuals age 65 or older prior to June 5, 2001, who are entitled to Medicare Part A and who have purchased Medicare Part B must continue to carry Part B to retain CHAMPVA eligibility as secondary payer for services received on or after October 1, 2001.

* * * * *

3. In § 17.272, paragraph (a)(31)(x) is added to read as follows:

§ 17.272 Benefit limitations/exclusions.

(a) * * *

(31) * * *

(x) School-required physical examinations for beneficiaries through age 17 that are provided on or after October 1, 2001.

* * * * *

4. Section 17.274 is revised to read as follows:

§ 17.274 Cost sharing.

(a) With the exception of services obtained through VA facilities, CHAMPVA is a cost-sharing program in which the cost of covered services is shared with the beneficiary. CHAMPVA pays the CHAMPVA-determined allowable amount less the deductible, if applicable, and less the beneficiary cost share.

(b) In addition to the beneficiary cost share, an annual (calendar year) outpatient deductible requirement ($50 per beneficiary or $100 per family) must be satisfied prior to the payment of outpatient benefits. There is no deductible requirement for inpatient services or for services provided through VA facilities.

(c) To provide financial protection against the impact of a long-term illness or injury, a calendar year cost limit or ''catastrophic cap'' has been placed on the beneficiary cost-share amount for covered services and supplies. Credits to the annual catastrophic cap are limited to the applied annual deductible(s) and the beneficiary cost-share amount. Costs above the CHAMPVA-allowable amount, as well as costs associated with non-covered services are not credited to the catastrophic cap computation. After a family has paid the maximum cost-share and deductible amounts for a calendar year, CHAMPVA will pay allowable amounts for the remaining covered services through the end of that calendar year.

(i) Through December 31, 2001, the annual cap on cost sharing is $7,500 per CHAMPVA-eligible family.

(ii) Effective January 1, 2001, the cap on cost sharing is $3,000 per CHAMPVA-eligible family.

(d) If the CHAMPVA benefit payment is under $1.00, payment will not be issued. Catastrophic cap and deductible will, however, be credited.

(Authority: 38 U.S.C. 1713**)**

[FR Doc. 02–2206 Filed 1–29–02; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[MD001–1000; FRL–7135–9]

Approval of Section 112(l) Authority for Hazardous Air Pollutants; State of Maryland; Department of the Environment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule and delegation of authority.

SUMMARY: EPA is taking direct final action to approve Maryland Department of the Environment's (MDE's) request for delegation of authority to implement and enforce its hazardous air pollutant regulations for perchloroethylene drycleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning, secondary lead smelting, hazardous waste combustors, and portland cement manufacturing

which have been adopted by reference from the Federal requirements set forth in the Code of Federal Regulations. This approval will automatically delegate future amendments to these regulations once MDE incorporates these amendments into its regulations. In addition, EPA is taking direct final action to approve of MDE's mechanism for receiving delegation of future hazardous air pollutant regulations. This mechanism entails MDE's incorporation by reference of the unchanged Federal standard into its hazardous air pollutant regulation and MDE's notification to EPA of such incorporation. EPA is not waiving its notification and reporting requirements under this approval; therefore, sources will need to send notifications and reports to both MDE and EPA. This action pertains only to affected sources, as defined by the Clean Air Act's (CAA's or the Act's) hazardous air pollutant program, which are not located at major sources, as defined by the Act's operating permit program. The MDE's request for delegation of authority to implement and enforce its hazardous air pollutant regulations at affected sources which are located at major sources, as defined by the Act's operating permit program, was initially approved on November 3, 1999. EPA is taking this action in accordance with the CAA.

DATES: This direct final rule will be effective April 1, 2002 unless EPA receives adverse or critical comments by March 1, 2002. If adverse comment is received, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments on this action should be sent concurrently to: Makeba A. Morris, Chief, Permits and Technical Assessment Branch, Mail Code 3AP11, Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103–2029, and Anne Marie DeBiase, Director, Air and Radiation Management Administration, Maryland Department of the Environment, 2500 Broening Highway, Baltimore, MD 21224. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103 and the Maryland Department of the Environment, 2500 Broening Highway, Baltimore, MD 21224.

FOR FURTHER INFORMATION CONTACT: Dianne J. McNally, U.S. Environmental Protection Agency, Region 3, 1650 Arch Street (3AP11), Philadelphia, PA 19103–2029, *mcnally.dianne@epa.gov* (telephone 215–814–3297). Please note that any formal comments must be submitted, in writing, as provided in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION:

I. Background

Section 112(l) of the Act and 40 Code of Federal Regulations (CFR) part 63 subpart E authorize EPA to approve of State rules and programs to be implemented and enforced in place of certain CAA requirements, including the National Emission Standards for Hazardous Air Pollutants set forth at 40 CFR part 63. EPA promulgated the program approval regulations on November 26, 1993 (58 FR 62262) and subsequently amended these regulations on September 14, 2000 (65 FR 55810). An approvable State program must contain, among other criteria, the following elements:

(a) A demonstration of the state's authority and resources to implement and enforce regulations that are at least as stringent as the NESHAP requirements;

(b) A schedule demonstrating expeditious implementation of the regulation; and

(c) A plan that assures expeditious compliance by all sources subject to the regulation.

On November 3, 1999, MDE received delegation of authority to implement all emission standards promulgated in 40 CFR part 63, as they apply to major sources, as defined by 40 CFR part 70. On June 26, 2000, MDE submitted to EPA a request to receive delegation of authority to implement and enforce the hazardous air pollutant regulations for the remaining affected sources defined in 40 CFR part 63. The MDE supplemented this request with additional information on October 3, 2001 and November 14, 2001. At the present time, this request includes the regulations for perchloroethylene drycleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning, secondary lead smelting, hazardous waste combustors, and portland cement manufacturing which have been adopted by reference from the Federal requirements set forth in 40 CFR part 63, subparts M, N, O, T, X, EEE, and LLL respectively. The MDE also requested that EPA automatically delegate future amendments to these regulations and approve MDE's mechanism for receiving delegation of future hazardous air pollutant regulations which it adopts unchanged from the Federal requirements. This mechanism entails MDE's incorporation by reference of the unchanged Federal standard into its regulation for hazardous air pollutant sources at Title 26, Subtitle 11 of the Maryland Code of Regulations and MDE's notification to EPA of such incorporation.

II. EPA's Analysis of MDE's Submittal

Based on MDE's program approval request and its pertinent laws and regulations, EPA has determined that such an approval is appropriate in that MDE has satisfied the criteria of 40 CFR 63.91. In accordance with 40 CFR 63.91(d)(3)(i), MDE submitted a written finding by the State Attorney General which demonstrates that the State has the necessary legal authority to implement and enforce its regulations, including the enforcement authorities which meet 40 CFR 70.11, the authority to request information from regulated sources and the authority to inspect sources and records to determine compliance status. In accordance with 40 CFR 63.91(d)(3)(ii), MDE submitted copies of its statutes, regulations and requirements that grant authority to MDE to implement and enforce the regulations. In accordance with 40 CFR 63.91(d)(3)(iii)–(v), MDE submitted documentation of adequate resources and a schedule and plan to assure expeditious State implementation and compliance by all sources. Therefore, the MDE program has adequate and effective authorities, resources, and procedures in place for implementation and enforcement of sources subject to the requirements of 40 CFR part 63, subparts M, N, O, T, X, EEE,[1] and LLL, as well as any future emission standards, should MDE seek delegation for these standards. The MDE adopts the emission standards promulgated in 40 CFR part 63 into regulation for hazardous air pollutant sources at Title 26, Subtitle 11 of the Code of Maryland Regulations (COMAR). The MDE has the primary authority and responsibility to carry out all elements of these programs for all sources covered in Maryland, including on-site inspections, record keeping reviews, and enforcement.

III. Terms of Program Approval and Delegation of Authority

In order for MDE to receive automatic delegation of future amendments to the perchloroethylene drycleaning facilities, hard and decorative chromium

[1] Delegation of the National Emission Standard for Hazardous Air Pollutants from Hazardous Waste Combustors (40 CFR part 63 subpart EEE) could be affected by the July 24, 2001 ruling by the United States Court of Appeals for the District of Columbia Circuit which vacated the rule.

electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning, secondary lead smelting, hazardous waste combustors,[2] and portland cement manufacturing regulations, as they apply to facilities that are not located at major sources, as defined by 40 CFR part 70, each amendment must be legally adopted by the State of Maryland. As stated earlier, these amendments are adopted into MDE's regulation for hazardous air pollutant sources at Title 26 COMAR, Subtitle 11. The delegation of amendments to these rules will be finalized on the effective date of the legal adoption. The MDE will notify EPA of its adoption of the Federal regulation amendments.

EPA has also determined that MDE's mechanism for receiving delegation of future hazardous air pollutant regulations which it adopts unchanged from the Federal requirements, as they apply to facilities that are not located at major sources, as defined by 40 CFR part 70, can be approved. This mechanism requires MDE to adopt the Federal regulation into the State's regulation for hazardous air pollutant sources at Title 26 COMAR, Subtitle 11. The delegation will be finalized on the effective date of the legal adoption. The MDE will notify EPA of its adoption of the Federal regulation. The official notice of delegation of additional emission standards will be published in the **Federal Register**. As noted earlier, MDE's program to implement and enforce all emission standards promulgated under 40 CFR part 63, as they apply to major sources, as defined by 40 CFR part 70, was previously approved on November 3, 1999. The notification and reporting provisions in 40 CFR part 63 requiring the owners or operators of affected sources to make submissions to the Administrator shall be met by sending such submissions to MDE and EPA Region III.

If at any time there is a conflict between a MDE regulation and a Federal regulation, the Federal regulation must be applied if it is more stringent than that of MDE. EPA is responsible for determining stringency between conflicting regulations. If MDE does not have the authority to enforce the more stringent Federal regulation, it shall notify EPA Region III in writing as soon as possible, so that this portion of the delegation may be revoked.

If EPA determines that MDE's procedure for enforcing or implementing the 40 CFR part 63 requirements is inadequate, or is not being effectively carried out, this delegation may be revoked in whole or in part in accordance with the procedures set out in 40 CFR 63.96(b).

Certain provisions of 40 CFR part 63 allow only the Administrator of EPA to take further standard setting actions. In addition to the specific authorities retained by the Administrator in 40 CFR 63.90(d) and the ''Delegation of Authorities'' section for specific standards, EPA Region III is retaining the following authorities, in accordance with 40 CFR 63.91(g)(2)(ii):

(1) Approval of alternative non-opacity emission standards, *e.g.,* 40 CFR 63.6(g) and applicable sections of relevant standards;

(2) Approval of alternative opacity standards, *e.g.,* 40 CFR 63.9(h)(9) and applicable sections of relevant standards;

(3) Approval of major alternatives to test methods, as defined in 40 CFR 63.90(a), *e.g.,* 40 CFR 63.7(e)(2)(ii) and (f) and applicable sections of relevant standards;

(4) Approval of major alternatives to monitoring, as defined in 40 CFR 63.90(a), *e.g.,* 40 CFR 63.8(f) and applicable sections of relevant standards; and

(5) Approval of major alternatives to recordkeeping and reporting, as defined in 40 CFR 63.90(a), *e.g.,* 40 CFR 63.10(f) and applicable sections of relevant standards.

The following provisions are included in this delegation, in accordance with 40 CFR 63.91(g)(1)(i), and can only be exercised on a case-by-case basis. When any of these authorities are exercised, MDE must notify EPA Region III in writing:

(1) Applicability determinations for sources during the title V permitting process and as sought by an owner/operator of an affected source through a formal, written request, *e.g.,* 40 CFR 63.1 and applicable sections of relevant standards [3];

(2) Responsibility for determining compliance with operation and maintenance requirements, *e.g.,* 40 CFR 63.6(e) and applicable sections of relevant standards;

(3) Responsibility for determining compliance with non-opacity standards, *e.g.,* 40 CFR 63.6(f) and applicable sections of relevant standards;

(4) Responsibility for determining compliance with opacity and visible emission standards, *e.g.,* 40 CFR 63.6(h) and applicable sections of relevant standards;

(5) Approval of site-specific test plans [4], *e.g.,* 40 CFR 63.7(c)(2)(i) and (d) and applicable sections of relevant standards;

(6) Approval of minor alternatives to test methods, as defined in 40 CFR 63.90(a), *e.g.,* 40 CFR 63.7(e)(2)(i) and applicable sections of relevant standards;

(7) Approval of intermediate alternatives to test methods, as defined in 40 CFR 63.90(a), *e.g.,* 40 CFR 63.7(e)(2)(ii) and (f) and applicable sections of relevant standards;

(8) Approval of shorter sampling times/volumes when necessitated by process variables and other factors, *e.g.,* 40 CFR 63.7(e)(2)(iii) and applicable sections of relevant standards;

(9) Waiver of performance testing, *e.g.,* 40 CFR 63.7 (e)(2)(iv), (h)(2), and (h)(3) and applicable sections of relevant standards;

(10) Approval of site-specific performance evaluation (monitoring) plans [5], *e.g.,* 40 CFR 63.8(c)(1) and (e)(1) and applicable sections of relevant standards;

(11) Approval of minor alternatives to monitoring methods, as defined in 40 CFR 63.90(a), *e.g.,* 40 CFR 63.8(f) and applicable sections of relevant standards;

(12) Approval of intermediate alternatives to monitoring methods, as defined in 40 CFR 63.90(a), *e.g.,* 40 CFR 63.8(f) and applicable sections of relevant standards;

(13) Approval of adjustments to time periods for submitting reports, *e.g.,* 40 CFR 63.9 and 63.10 and applicable sections of relevant standards; and

(14) Approval of minor alternatives to recordkeeping and reporting, as defined in 40 CFR 63.90(a), *e.g.,* 40 CFR 63.10(f) and applicable sections of relevant standards.

[2] See Footnote 1.

[3] Applicability determinations are considered to be nationally significant when they:

(i) Are usually complex or controversial;

(ii) Have bearing on more than one state or are multi-Regional;

(iii) Appear to create a conflict with previous policy or determinations;

(iv) Are a legal issue which has not been previously considered; or

(v) Raise new policy questions and shall be forwarded to EPA Region III prior to finalization.

Detailed information on the applicability determination process may be found in EPA document 305–B–99–004 *How to Review and Issue Clean Air Act Applicability Determinations and Alternative Monitoring,* dated February 1999. The MDE may also refer to the Compendium of Applicability Determinations issued by the EPA and may contact EPA Region III for guidance.

[4] The MDE will notify EPA of these approvals on a quarterly basis by submitting a copy of the test plan approval letter. Any plans which propose major alternative test methods or major alternative monitoring methods shall be referred to EPA for approval.

[5] The MDE will notify EPA of these approvals on a quarterly basis by submitting a copy of the performance evaluation plan approval letter. Any plans which propose major alternative test methods or major alternative monitoring methods shall be referred to EPA for approval.

As required, MDE and EPA Region III will provide the necessary written, verbal and/or electronic notification to ensure that each agency is fully informed regarding the interpretation of applicable regulations in 40 CFR part 63. In instances where there is a conflict between a MDE interpretation and a Federal interpretation of applicable regulations in 40 CFR part 63, the Federal interpretation must be applied if it is more stringent than that of MDE.

Written, verbal and/or electronic notification will also be used to ensure that each agency is informed of the compliance status of affected sources in Maryland. The MDE will comply with all of the requirements of 40 CFR 63.91(g)(1)(ii). Quarterly reports will be submitted to EPA by MDE to identify sources determined to be applicable during that quarter.

Although MDE has primary authority and responsibility to implement and enforce the hazardous air pollutant general provisions and hazardous air pollutant emission standards for perchloroethylene drycleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning, secondary lead smelting, hazardous waste combustors,[6] and portland cement manufacturing, nothing shall preclude, limit, or interfere with the authority of EPA to exercise its enforcement, investigatory, and information gathering authorities concerning this part of the Act.

IV. Final Action

EPA is approving MDE's request for delegation of authority to implement and enforce its hazardous air pollutant regulations for perchloroethylene drycleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning secondary lead smelting, hazardous waste combustors,[7] and portland cement manufacturing which have been adopted by reference from 40 CFR part 63, subparts M, N, O, T, X, EEE, and LLL, respectively. This approval will automatically delegate future amendments to these regulations. In addition, EPA is approving of MDE's mechanism for receiving delegation of future hazardous air pollutant regulations which it adopts unchanged from the Federal requirements. This mechanism entails legal adoption by the State of Maryland of the amendments or rules into the State's regulation for hazardous air pollutant sources at Title 26 COMAR, Subtitle 11 and notification to EPA of such adoption. This action pertains only to affected sources, as defined by 40 CFR part 63, which are not located at major sources, as defined by 40 CFR part 70. The delegation of authority shall be administered in accordance with the terms outlined in section IV., above. This delegation of authority is codified in 40 CFR 63.99. In addition, MDE's delegation of authority to implement and enforce 40 CFR part 63 emission standards at major sources, as defined by 40 CFR part 70, approved by EPA Region III on November 3, 1999, is codified in 40 CFR 63.99.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial rule and anticipates no adverse comment because MDE's request for delegation of the hazardous air pollutant regulations pertaining to perchloroethylene drycleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning, secondary lead smelting, hazardous waste combustors,[8] and portland cement manufacturing and its request for automatic delegation of future amendments to these rules and future standards, when specifically identified, does not alter the stringency of these regulations and is in accordance with all program approval regulations. However, in the ''Proposed Rules'' section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve of MDE's request for delegation if adverse comments are filed. This rule will be effective on April 1, 2002 without further notice unless EPA receives adverse comment by March 1, 2002. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

V. Administrative Requirements

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use''(66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not substantially direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant. In reviewing requests for rule approval under CAA section 112, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS),

[6] See Footnote 1.

[7] See Footnote 1.

[8] See Footnote 1.

EPA has no authority to disapprove requests for rule approval under CAA section 112 for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a request for rule approval under CAA section 112, to use VCS in place of a request for rule approval under CAA section 112 that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 1, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action, pertaining to the approval of MDE's delegation of authority for the hazardous air pollutant emission standards for perchloroethylene dry cleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilizers, halogenated solvent cleaning, secondary lead smelting, hazardous waste combustors, and portland cement manufacturing (CAA section 112), may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects 40 CFR part 63

Administrative practice and procedure, Air pollution control , Hazardous substances, Intergovernmental relations.

Dated: January 22, 2002.

Judith M. Katz,

Director, Air Protection Division, Region III.

40 CFR part 63 is amended as follows:

PART 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401, et. seq.

Subpart E—Approval of State Programs and Delegation of Federal Authorities

2. Section 63.99 is amended by adding paragraph (a)(20) to read as follows:

§ 63.99 Delegated Federal authorities.

(a) * * *

(20) Maryland.

(i) Maryland is delegated the authority to implement and enforce all existing and future unchanged 40 CFR part 63 standards at major sources, as defined in 40 CFR part 70, in accordance with the delegation agreement between EPA Region III and the Maryland Department of the Environment, dated November 3, 1999, and any mutually acceptable amendments to that agreement.

(ii) Maryland is delegated the authority to implement and enforce all existing 40 CFR part 63 standards and all future unchanged 40 CFR part 63 standards, if delegation is sought by the Maryland Department of the Environment and approved by EPA Region III, at affected sources which are not located at major sources, as defined in 40 CFR part 70, in accordance with the final rule, dated January 30, 2002, effective April 1, 2002, and any mutually acceptable amendments to the terms described in the direct final rule.

[FR Doc. 02–2230 Filed 1–29–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[PA001–1002; FRL–7135–3]

Approval of Section 112(l) Authority for Hazardous Air Pollutants and the Chemical Accident Prevention Provisions; Allegheny County; Health Department

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule and delegation of authority.

SUMMARY: EPA is taking direct final action to approve Allegheny County Health Department's (ACHD's) request for delegation of authority to implement and enforce its hazardous air pollutant regulations which have been adopted by reference from the Federal requirements set forth in the Code of Federal Regulations. This approval will automatically delegate future amendments to these regulations. For sources which are required to obtain a Clean Air Act operating permit, this delegation addresses all existing hazardous pollutant regulations. For sources which are not required to obtain a Clean Air Act operating permit, this delegation presently addresses the hazardous air pollutant regulations for perchloroethylene drycleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning, secondary lead smelting, hazardous waste combustors, portland cement manufacturing, and secondary aluminum smelting. This delegation addresses all sources subject to the accidental release prevention regulations. In addition, EPA is taking direct final action to automatically delegate all future hazardous air pollutant regulations which ACHD adopts unchanged from the Federal requirements. EPA is not waiving its notification and reporting requirements under this approval; therefore, sources will need to send notifications and reports to both ACHD and EPA. This action pertains to affected sources, as defined by the Clean Air Act's (CAA's or the Act's) hazardous air pollutant program, as well as covered processes, as defined by the Act's chemical accident prevention provisions. EPA is taking this action in accordance with the CAA.

DATES: This direct final rule will be effective April 1, 2002 unless EPA receives adverse or critical comments by March 1, 2002. If adverse comment is received, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments on this action should be sent concurrently to: Makeba A. Morris, Chief, Permits and Technical Assessment Branch, Mail Code 3AP11, Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103–2029, and Roger C. Westman, Manager, Air Quality

Program, Allegheny County Health Department, 301 39th Street, Pittsburgh, PA 15201–8103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103 and Allegheny County Health Department, 301 39th Street, Pittsburgh, PA 15201–8103.

FOR FURTHER INFORMATION CONTACT: Dianne J. McNally, U.S. Environmental Protection Agency, Region 3, 1650 Arch Street (3AP11), Philadelphia, PA 19103–2029, *mcnally.dianne@epa.gov* (telephone 215–814–3297). Please note that any formal comments must be submitted, in writing, as provided in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION:

I. Background

Section 112(l) of the Act and 40 Code of Federal Regulations (CFR) part 63 subpart E authorize EPA to approve of State rules and programs to be implemented and enforced in place of certain CAA requirements, including the National Emission Standards for Hazardous Air Pollutants set forth at 40 CFR part 63 and the chemical accident prevention provisions set forth at 40 CFR part 68. EPA promulgated the program approval regulations on November 26, 1993 (58 FR 62262) and subsequently amended these regulations on September 14, 2000 (65 FR 55810). An approvable State program must contain, among other criteria, the following elements:

(a) a demonstration of the State's authority and resources to implement and enforce regulations that are at least as stringent as the 40 CFR part 63 National Emission Standards for Hazardous Air Pollutant (NESHAP) requirements and the 40 CFR part 68 chemical accident prevention provisions, including an auditing strategy at least as stringent as the EPA regulation;

(b) a schedule demonstrating expeditious implementation of the regulations;

(c) a plan that assures expeditious compliance by all sources subject to the regulations;

(d) a requirement that subject sources submit a risk management plan (RMP);

(d) procedures for reviewing RMPs; and,

(e) procedures to provide technical assistance to subject sources, including small businesses, under the chemical accident prevention provisions.

On March 30, 1998 and October 30, 1998, ACHD, through letters from the Pennsylvania Department of Environmental Protection (PADEP), submitted to EPA requests to receive delegation of authority to implement and enforce the hazardous air pollutant regulations which have been adopted by reference from 40 CFR part 63 and the chemical accident prevention regulations which have been adopted by reference from 40 CFR part 68. On August 4, 1999, PADEP submitted a copy of an Agreement for Implementation of the Title V Operating Permits Program between EPA, PADEP and ACHD. On June 15, 2001, ACHD submitted a letter to EPA clarifying its request for delegation of authority of the NESHAPs and the chemical accident prevention provisions. In this letter, ACHD stated that it was seeking delegation of authority of the NESHAPs, as they applied to sources subject to the Title V program and to sources which have taken a federally-enforceable limit on their potential to emit to below the major source thresholds, as defined in 40 CFR part 70. The ACHD also clarified that it was seeking automatic delegation of future NESHAPs for these sources. This letter also reiterated that ACHD was seeking delegation of the chemical accident prevention regulations for all sources. These four submissions provided detailed information on ACHD's legal and enforcement authority, resources, and implementation procedures for addressing the hazardous air pollutant regulations at facilities required to obtain an operating permit under 40 CFR part 70 and the chemical accident prevention regulations at all facilities. On October 24, 2001, ACHD submitted to EPA additional information necessary to receive delegation of authority to implement and enforce the hazardous air pollutant regulations for perchloroethylene drycleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning and secondary lead smelting which have been adopted by reference from 40 CFR part 63, subparts M, N, O, T and X, respectively, at sources not addressed in ACHD's previous requests. In this October 24, 2001 request, ACHD also asked that EPA automatically delegate future amendments to these specific regulations and future hazardous air pollutant regulations adopted unchanged from the Federal requirements which were not addressed by ACHD's previous requests. Because ACHD automatically adopts by reference the regulations in 40 CFR part 63, the recently promulgated regulations addressing hazardous waste combustors, portland cement manufacturing, and secondary aluminum smelting (40 CFR part 63 subparts EEE, LLL, and RRR, respectively), while not specifically mentioned in thisOctober 24, 2001 letter, are also part of the delegation request.

II. EPA's Analysis of ACHD's Submittal

Based on ACHD's program approval request and its pertinent laws and regulations, EPA has determined that such an approval is appropriate in that ACHD has satisfied the criteria of 40 CFR 63.91 and 63.95. In accordance with 40 CFR 63.91(d)(3)(i), ACHD submitted two written findings by the County Solicitor which demonstrate that ACHD has the necessary legal authority to implement and enforce its regulations, including the enforcement authorities which meet 40 CFR 70.11, the authority to request information from regulated sources and the authority to inspect sources and records to determine compliance status. In accordance with 40 CFR 63.91(d)(3)(ii), ACHD submitted copies of its statutes, regulations and requirements that grant authority to ACHD to implement and enforce the regulations. In accordance with 40 CFR 63.91(d)(3(iii)–(v), ACHD submitted documentation of adequate resources and a schedule and plan to assure expeditious implementation and compliance by all sources. Therefore, the ACHD program has adequate and effective authorities, resources, and procedures in place for implementation and enforcement of the emission standards of 40 CFR part 63, including 40 CFR part 63, subparts M, N, O, T, X, EEE [1], LLL and RRR, and the chemical accident prevention provisions of 40 CFR part 68, at all covered facilities. In addition, the ACHD program has adequate and effective authorities, resources and procedures in place for implementation and enforcement of any future emission standards.

In accordance with 40 CFR 63.95(b)(1), ACHD submitted information which demonstrates that it has the authority and resources to implement and enforce regulations that are no less stringent than the regulations in 40 CFR part 68, subparts A through G and 68.200 and a requirement that subject sources submit a RMP that reports at least the same information in the same format as required under 40 CFR part 68, subpart G. As required by

[1] Delegation of the National Emission Standard for Hazardous Air Pollutants from Hazardous Waste Combustors (40 CFR part 63 subpart EEE) could be affected by the July 24, 2001 ruling by the United States Court of Appeals for the District of Columbia Circuit which vacated the rule.

40 CFR 63.95(b)(3)–(4), ACHD submitted documentation that it has adequate procedures for reviewing RMPs, providing technical assistance to stationary sources, including small businesses, and auditing RMPs in a manner consistent with the Federal regulation.

The ACHD automatically adopts the emission standards promulgated in 40 CFR part 63 and the chemical accident prevention provisions promulgated in 40 CFR part 68 into the County of Allegheny, Pennsylvania, Ordinance No. 16782 and Allegheny County Health Department Rules and Regulations, Article XXI Air Pollution Control 2104.08. The ACHD has the primary authority and responsibility to carry out all elements of these programs for all sources covered in Allegheny County, including on-site inspections, record-keeping reviews, and enforcement.

III. Terms of Program Approval and Delegation of Authority

In order for ACHD to receive automatic delegation of future amendments to the hazardous air pollutant regulations [2] and the chemical accident prevention provisions, each amendment must be legally adopted by Allegheny County. As stated earlier, these amendments are automatically adopted into the County of Allegheny, Pennsylvania, Ordinance No. 16782 and ACHD Rules and Regulations, Article XXI Air Pollution Control 2104.08. The delegation of amendments to these rules will be finalized on the effective date of the legal adoption.

EPA has also determined that ACHD can be delegated the authority to implement and enforce all future hazardous air pollutant regulations, which it adopts unchanged from the Federal requirements. The delegation of future hazardous air pollutant regulations will be finalized on the effective date of the legal adoption. The official notice of delegation of additional emission standards will be published in the **Federal Register**. The notification and reporting provisions in 40 CFR part 63 requiring the owners or operators of affected sources to make submissions to the Administrator shall be met by sending such submissions to ACHD and EPA Region III.

If at any time there is a conflict between an ACHD regulation and a Federal regulation, the Federal regulation must be applied if it is more stringent than that of ACHD. EPA is responsible for determining stringency between conflicting regulations. If ACHD does not have the authority to enforce the more stringent Federal regulation, it shall notify EPA Region III in writing as soon as possible, so that this portion of the delegation may be revoked.

If EPA determines that ACHD's procedures for enforcing or implementing the 40 CFR part 63 or 40 CFR part 68 requirements are inadequate, or are not being effectively carried out, this delegation may be revoked in whole or in part in accordance with the procedures set out in 40 CFR 63.96(b).

Certain provisions of 40 CFR part 63 and 40 CFR part 68 allow only the Administrator of EPA to take further standard setting actions. In addition to the specific authorities retained by the Administrator in 40 CFR 63.90(d) and 40 CFR 68.120 and the ''Delegation of Authorities'' section for specific standards, EPA Region III is retaining the following authorities, in accordance with 40 CFR 63.91(g)(2)(ii):

(1) approval of alternative non-opacity emission standards, e.g., 40 CFR 63.6(g) and applicable sections of relevant standards;

(2) approval of alternative opacity standards, e.g., 40 CFR 63.9(h)(9) and applicable sections of relevant standards;

(3) approval of major alternatives to test methods, as defined in 40 CFR 63.90(a), e.g., 40 CFR 63.7(e)(2)(ii) and (f) and applicable sections of relevant standards;

(4) approval of major alternatives to monitoring, as defined in 40 CFR 63.90(a), e.g., 40 CFR 63.8(f) and applicable sections of relevant standards; and

(5) approval of major alternatives to recordkeeping and reporting, as defined in 40 CFR 63.90(a), e.g., 40 CFR 63.10(f) and applicable sections of relevant standards.

The following provisions are included in this delegation, in accordance with 40 CFR 63.91(g)(1)(i), and can only be exercised on a case-by-case basis. When any of these authorities are exercised, ACHD must notify EPA Region III in writing:

(1) applicability determinations for sources during the title V permitting process and as sought by an owner/operator of an affected source through a formal, written request, e.g., 40 CFR 63.1 and applicable sections of relevant standards;[3]

(2) responsibility for determining compliance with operation and maintenance requirements, e.g., 40 CFR 63.6(e) and applicable sections of relevant standards;

(3) responsibility for determining compliance with non-opacity standards, e.g., 40 CFR 63.6(f) and applicable sections of relevant standards;

(4) responsibility for determining compliance with opacity and visible emission standards, e.g., 40 CFR 63.6(h) and applicable sections of relevant standards;

(5) approval of site-specific test plans,[4] e.g., 40 CFR 63.7(c)(2)(i) and (d) and applicable sections of relevant standards;

(6) approval of minor alternatives to test methods, as defined in 40 CFR 63.90(a), e.g., 40 CFR 63.7(e)(2)(i) and applicable sections of relevant standards;

(7) approval of intermediate alternatives to test methods, as defined in 40 CFR 63.90(a), e.g., 40 CFR 63.7(e)(2)(ii) and (f) and applicable sections of relevant standards;

(8) approval of shorter sampling times/volumes when necessitated by process variables and other factors, e.g., 40 CFR 63.7(e)(2)(iii) and applicable sections of relevant standards;

(9) waiver of performance testing, e.g., 40 CFR 63.7 (e)(2)(iv), (h)(2), and (h)(3) and applicable sections of relevant standards;

(10) approval of site-specific performance evaluation (monitoring) plans,[5] e.g., 40 CFR 63.8(c)(1) and (e)(1) and applicable sections of relevant standards;

(11) approval of minor alternatives to monitoring methods, as defined in 40 CFR 63.90(a), e.g., 40 CFR 63.8(f) and applicable sections of relevant standards;

(12) approval of intermediate alternatives to monitoring methods, as

[2] See Footnote 1.

[3] Applicability determinations are considered to be nationally significant when they:

(i) are unusually complex or controversial;

(ii) have bearing on more than one state or are multi-Regional;

(iii) appear to create a conflict with previous policy or determinations;

(iv) are a legal issue which has not been previously considered; or

(v) raise new policy questions and shall be forwarded to EPA Region III prior to finalization.

Detailed information on the applicability determination process may be found in EPA document 305–B–99–004 *How to Review and Issue Clean Air Act Applicability Determinations and Alternative Monitoring, dated February 1999. The ACHD may also refer to the Compendium of Applicability Determinations* issued by the EPA and may contact EPA Region III for guidance.

[4] The ACHD will notify EPA of these approvals on a quarterly basis by submitting a copy of the test plan approval letter. Any plans which propose major alternative test methods or major alternative monitoring methods shall be referred to EPA for approval.

[5] The ACHD will notify EPA of these approvals on a quarterly basis by submitting a copy of the performance evaluation plan approval letter. Any plans which propose major alternative test methods or major alternative monitoring methods shall be referred to EPA for approval.

defined in 40 CFR 63.90(a), e.g., 40 CFR 63.8(f) and applicable sections of relevant standards;

(13) approval of adjustments to time periods for submitting reports, e.g., 40 CFR 63.9 and 63.10 and applicable sections of relevant standards; and

(14) approval of minor alternatives to recordkeeping and reporting, as defined in 40 CFR 63.90(a), e.g., 40 CFR 63.10(f) and applicable sections of relevant standards.

As required, ACHD and EPA Region III will provide the necessary written, verbal and/or electronic notification to ensure that each agency is fully informed regarding the interpretation of applicable regulations in 40 CFR part 63 and 40 CFR part 68. In instances where there is a conflict between a ACHD interpretation and a Federal interpretation of applicable regulations in 40 CFR part 63 and 40 CFR part 68, the Federal interpretation must be applied if it is more stringent than that of ACHD. Written, verbal and/or electronic notification will also be used to ensure that each agency is informed of the compliance status of affected sources in Allegheny County. The ACHD will comply with all of the requirements of 40 CFR 63.91(g)(1)(ii). Quarterly reports will be submitted to EPA by ACHD to identify sources determined to be applicable during that quarter. Although ACHD has primary authority and responsibility to implement and enforce the hazardous air pollutant regulations [6] and the chemical accident prevention provisions, nothing shall preclude, limit, or interfere with the authority of EPA to exercise its enforcement, investigatory, and information gathering authorities concerning this part of the Act.

IV. Final Action

EPA is approving ACHD's request for delegation of authority to implement and enforce its hazardous air pollutant emission standards [7] which have been adopted by reference from the Federal requirements set forth in 40 CFR part 63 and its chemical accident prevention provisions which have been adopted by reference from the Federal requirements set forth in 40 CFR part 68. This approval will automatically delegate future amendments to these regulations. For sources which are required to obtain an operating permit under 40 CFR part 70, this delegation addresses all existing hazardous air pollutant emission standards as adopted by reference from 40 CFR part 63. For sources which are not required to obtain an operating permit under 40 CFR part 70, this delegation presently addresses hazardous air pollutant regulations for perchloroethylene drycleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning, secondary lead smelting, hazardous waste combustors,[8] portland cement manufacturing, and secondary aluminum smelting as adopted by reference from 40 CFR part 63, subparts M, N, O, T, X, EEE, LLL and RRR, respectively. This delegation addresses all sources subject to the accidental release prevention regulations. In addition, EPA is taking direct final action to automatically delegate all future hazardous air pollutant regulations which ACHD adopts unchanged from the Federal requirements. The delegation of authority shall be administered in accordance with the terms outlined in section IV., above. This delegation of authority is codified in 40 CFR 63.99.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial rule and anticipates no adverse comment because ACHD's request for delegation of the hazardous air pollutant regulations and its request for automatic delegation of future amendments to these rules and future standards does not alter the stringency of these regulations and is in accordance with all program approval regulations. However, in the ''Proposed Rules'' section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve of ACHD's request for delegation if adverse comments are filed. This rule will be effective on April 1, 2002 without further notice unless EPA receives adverse comment by March 1, 2002. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

V. Administrative Requirements

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant. In reviewing requests for rule approval under CAA section 112, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove requests for rule approval under CAA section 112 for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a request for rule approval under CAA

[6] See Footnote 1.

[7] See Footnote 1.

[8] See Footnote 1.

section 112, to use VCS in place of a request for rule approval under CAA section 112 that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 1, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action, pertaining to the approval of ACHD's delegation of authority for the hazardous air pollutant emission standards and the chemical accident prevention provisions (CAA section 112), may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects 40 CFR Part 63

Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations.

Dated: January 22, 2002.

Judith M. Katz,

Director, Air Protection Division, Region III.

40 CFR part 63 is amended as follows:

PART 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

Subpart E—Approval of State Programs and Delegation of Federal Authorities

2. Section 63.99 is amended by adding paragraphs (a)(38)(iv) and (v):

§ 63.99 Delegated Federal authorities.

(a) * * *

(38) * * *

(iv) Allegheny County is delegated the authority to implement and enforce all existing 40 CFR part 63 standards and all future unchanged 40 CFR part 63 standards at sources within Allegheny County, in accordance with the final rule, dated January 30, 2002, effective April 1, 2002, and any mutually acceptable amendments to the terms described in the direct final rule.

(v) Allegheny County is delegated the authority to implement and enforce the provisions of 40 CFR part 68 and all future unchanged amendments to 40 CFR part 68 at sources within Allegheny County, in accordance with the final rule, dated January 30, 2002, effective April 1, 2002, and any mutually acceptable amendments to the terms described in the direct final rule.

[FR Doc. 02–2228 Filed 1–29–02; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Parts 2, 4, 7, 10, 13, and 35

RIN 1090–AA80

Change of Address for Office of Hearings and Appeals

AGENCY: Office of the Secretary, Interior.

ACTION: Final rule.

SUMMARY: The Department of the Interior is revising its regulations governing administrative appeals to reflect a change of address for the Office of Hearings and Appeals (OHA). OHA is moving to a new building in Arlington, Virginia, effective February 11, 2002.

DATES: This rule is effective February 11, 2002.

FOR FURTHER INFORMATION CONTACT: Charles E. Breece, Principal Deputy Director, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, Virginia 22203, telephone 703–235–3810. After February 11, 2002, Mr. Breece's address will change to Office of Hearings and Appeals, 801 North Quincy Street, Arlington, Virginia 22203. The phone number will remain the same.

SUPPLEMENTARY INFORMATION:

I. Background
II. Procedural Requirements

I. Background

The Department of the Interior's Office of Hearings and Appeals (OHA) conducts hearings and renders decisions in a wide variety of administrative appeals from actions taken by the bureaus and offices of the Department. OHA consists of a headquarters office, located in Arlington, Virginia, and nine field offices located throughout the country. The headquarters office contains the Office of the Director, the Interior Board of Contract Appeals, the Interior Board of Indian Appeals, the Interior Board of Land Appeals, the headquarters component of the Hearings Division, and a Division of Administration. Since 1970, the headquarters office has been located at 4015 Wilson Boulevard, and that address is included in numerous provisions of the Code of Federal Regulations relating to administrative appeals within the Department.

Effective February 11, 2002, the OHA headquarters office is being relocated to 801 North Quincy Street, Arlington, Virginia. In anticipation of that move, the Department is revising its administrative appeals regulations to reflect OHA's new street address.

II. Procedural Requirements

A. Determination To Issue Final Rule Effective in Less than 30 Days

The Department has determined that the public notice and comment provisions of the Administrative Procedure Act, 5 U.S.C. 553(b), do not apply to this rulemaking because the changes being made relate solely to matters of agency organization, procedure, and practice. They therefore satisfy the exemption from notice and comment rulemaking in 5 U.S.C. 553(b)(A).

Moreover, the Department has determined that there is good cause to waive the requirement of publication 30 days in advance of the rule's effective date under 5 U.S.C. 553(d). Since the timing of OHA's relocation is dictated by the construction schedule for the building to which OHA is moving, the actual move date was confirmed only in the past few weeks. If the changes in this rule were to become effective 30 days after publication, it could cause delays in processing appeals. A February 11, 2002, effective date means that appeals will go directly to the new address and thus will be processed more quickly. Because a February 11 effective date benefits the public, there is good cause for making this rule effective in less than 30 days, as permitted by 5 U.S.C. 553(d)(3).

B. Review Under Procedural Statutes and Executive Orders

The Department has reviewed this rule under the following statutes and executive orders governing rulemaking procedures: the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1501 *et seq.*; the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*; the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 801 *et seq.*; the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*; the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*; Executive Order 12630 (Takings); Executive Order 12866 (Regulatory Planning and Review); Executive Order 12988 (Civil Justice Reform); Executive Order 13132 (Federalism); Executive Order 13175 (Tribal Consultation); and Executive Order 13211 (Energy Impacts). The Department has determined that this rule does not trigger any of the procedural requirements of those statutes and executive orders, since this rule merely changes the street address for OHA's headquarters office.

Dated: January 18, 2002.

P. Lynn Scarlett,

Assistant Secretary—Policy, Management and Budget.

For the reasons stated in the preamble, the Department of the Interior amends its regulations in 43 CFR parts 2, 4, 7, 10, 13, and 35 as follows:

43 CFR PART 2—[AMENDED]

1. The authority citation for part 2 continues to read as follows:

Authority: 5 U.S.C. 301, 552 and 552a; 31 U.S.C. 9701; and 43 U.S.C. 1460.

§ 2.2 [Amended]

2. In § 2.2, revise all references to ''Ballston Building No. 3, 4015 Wilson Boulevard'' to read ''801 North Quincy Street''.

§ 2.14 [Amended]

3. In § 2.14(a)(2)(i), revise ''4015 Wilson Boulevard'' to read ''801 North Quincy Street''.

Appendix B to Part 2 [Amended]

4. In Appendix B, paragraph 1, revise ''4015 Wilson Boulevard'' to read ''801 North Quincy Street''.

43 CFR PART 4—[AMENDED]

5. The authority citation for part 4 continues to read as follows:

Authority: R.S. 2478, as amended, 43 U.S.C. 1201, unless otherwise noted.

Subpart C—[Amended]

6. The authority citation for part 4, subpart C continues to read as follows:

Authority: 5 U.S.C. 301 and the Contract Disputes Act of 1978 (Pub. L. 95–563, Nov. 1, 1978 (41 U.S.C. 601–613)).

7. In part 4, subpart C, revise all references to ''4015 Wilson Boulevard'' to read ''801 North Quincy Street''.

Subpart D—[Amended]

8. The authority citation for part 4, subpart D continues to read as follows:

Authority: Secs. 1, 2, 36 Stat. 855, as amended, 856, as amended, sec. 1, 38 Stat. 586, 42 Stat. 1185, as amended, secs. 1, 2, 56 Stat. 1021, 1022; R.S. 463, 465; 5 U.S.C. 301; 25 U.S.C. secs. 2, 9, 372, 373, 374, 373a, 373b, 410; 100 Stat. 61, as amended by 101 Stat. 886 and 101 Stat. 1433, 25 U.S.C. 331 note.

9. In part 4, subpart D, revise all references to ''4015 Wilson Boulevard'' to read ''801 North Quincy Street''.

Subpart E—[Amended]

10. The authority citation for part 4, subpart E continues to read as follows:

Authority: Sections 4.470 to 4.478 also issued under authority of sec. 2, 48 Stat. 1270; 43 U.S.C. 315a.

11. In part 4, subpart E, revise all references to ''4015 Wilson Boulevard'' to read ''801 North Quincy Street''.

Subpart J—[Amended]

12. The authority citation for part 4, subpart J continues to read as follows:

Authority: 5 U.S.C. 301 *et seq.*; 25 U.S.C. 396 *et seq.*, 396a *et seq.*, 2101 *et seq.*; 30 U.S.C. 181 *et seq.*, 351 *et seq.*, 1001 *et seq.*, 1701 *et seq.*; 31 U.S.C 9701; 43 U.S.C. 1301 *et seq.*, 1331 *et seq.*, and 1801 *et seq.*

13. In § 4.909(b)(1), revise ''4015 Wilson Boulevard'' to read ''801 North Quincy Street''.

Subpart L—[Amended]

14. The authority citation for part 4, subpart L continues to read as follows:

Authority: 30 U.S.C. 1256, 1260, 1261, 1264, 1268, 1271, 1272, 1275, 1293; 5 U.S.C. 301.

15. In part 4, subpart L, revise all references to ''4015 Wilson Boulevard'' to read ''801 North Quincy Street''.

Subpart M—[Amended]

16. The authority citation for part 4, subpart M continues to read as follows:

Authority: 5 U.S.C. 301

§ 4.1604 [Amended]

17. In § 4.1604, revise ''room 1111, Ballston Towers Building No. 3, 4015 Wilson Boulevard'' to read ''801 North Quincy Street''.

PART 7—[AMENDED]

18. The authority citation for part 7 continues to read as follows:

Authority: Pub. L. 96–95, 93 Stat. 721, as amended; 102 Stat. 2983 (16 U.S.C. 470aa–mm) (Sec. 10(a). Related authority: Pub. L. 59–209, 34 Stat. 225 (16 U.S.C. 432, 433); Pub. L. 86–523; 74 Stat. 220, 221 (16 U.S.C. 469), as amended; 88 Stat. 174 (1974); Pub. L. 89–665, 80 Stat. 915 (16 U.S.C. 470a–t), as amended, 84 Stat. 204 (1970), 87 Stat. 139 (1973), 90 Stat. 1320 (1976), 92 Stat. 3467 (1978), 94 Stat. 2987 (1980); Pub. L. 95–341, 92 Stat. 469 (42 U.S.C. 1996).

§ 7.37 [Amended]

19. In § 7.37, revise all references to ''4015 Wilson Boulevard'' to read ''801 North Quincy Street''.

PART 10—[AMENDED]

20. The authority citation for part 10 continues to read as follows:

Authority: 25 U.S.C. 3001 *et seq.*

§ 10.12 [Amended]

21. In § 10.12, revise all references to ''4015 Wilson Boulevard'' to read ''801 North Quincy Street''.

PART 13—[AMENDED]

22. The authority citation for part 13 continues to read as follows:

Authority: Sec. 4, 68 Stat. 663; 20 U.S.C. 107.

§ 13.6 [Amended]

23. In § 13.6, revise ''4015 Wilson Boulevard'' to read ''801 North Quincy Street''.

PART 35—[AMENDED]

24. The authority citation for part 35 continues to read as follows:

Authority: 5 U.S.C. 301; 31 U.S.C. 3801–3812.

§ 35.1 [Amended]

25. In § 35.1(g), revise ''4015 Wilson Boulevard'' to read ''801 North Quincy Street''.

[FR Doc. 02–2188 Filed 1–29–02; 8:45 am]

BILLING CODE 4310–RK–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 010710171-2013-02; I.D. 051401B]

RIN 0648-AL41

Fisheries Off West Coast States and in the Western Pacific; Pelagic Fisheries; Prohibition on Fishing for Pelagic Management Unit Species; Nearshore Area Closures Around American Samoa by Vessels More Than 50 Feet in Length

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to prohibit certain vessels from fishing for Pacific pelagic management unit species (PMUS) within nearshore areas seaward of 3 nautical miles (nm) to approximately 50 nm around the islands of American Samoa. This prohibition applies to vessels that measure more than 50 ft (15.2 m) in length overall and that did not land pelagic management unit species in American Samoa under a Federal longline general permit prior to November 13, 1997. This action is intended to prevent the potential for gear conflicts and catch competition between large fishing vessels and locally based small fishing vessels. Such conflicts and competition could lead to reduced opportunities for sustained participation by residents of American Samoa in the small-scale pelagic fishery.

DATES: Effective March 1, 2002.

ADDRESSES: Copies of the Final Environmental Impact Statement for the Fishery Management Plan for the Pelagic Fisheries of the Western Pacific Region (FEIS) may be obtained from Dr. Charles Karnella, Administrator, NMFS, Pacific Islands Area Office (PIAO), 1601 Kapiolani Blvd., Suite 1110, Honolulu, HI 96814. Copies of the regulatory impact review/final regulatory flexibility analysis (RIR/FRFA) prepared for this final rule may be obtained from Ms. Kitty Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, Suite 1400, Honolulu, HI 96813.

FOR FURTHER INFORMATION CONTACT: Alvin Katekaru, PIAO, at 808-973-2937.

SUPPLEMENTARY INFORMATION: A proposed rule was published in the **Federal Register** on July 31, 2001 (66 FR 39475). As discussed in the proposed rule, small vessel fishermen have raised concerns over the potential for gear conflicts between the small-vessel (less than or equal to 50 ft (15.2 m) in length overall) fishing fleet and large longline fishing vessels greater than 50 ft (15.2 m) length overall, hereafter called ''large vessels,'' targeting PMUS in the American Samoa pelagic fishery, as well as regarding adverse impacts on fishery resources resulting from the increased numbers of large fishing vessels in the fishery. Due to the limited mobility of the smaller vessels, an influx of large domestic vessels fishing in the nearshore waters of the U.S. exclusive economic zone (EEZ) around American Samoa could lead to gear conflicts, catch competition, and reduced opportunities for sustained fishery participation by the locally based small boat operators. Local fishermen and associated fishing communities depend on this fishery not only for food, income, and employment, but also for the preservation of their Samoan culture.

This final rule, is a regulatory amendment under the Fishery Management Plan for the Pelagic Fisheries of the Western Pacific Region (FMP). It prohibits U.S. vessels more than 50 ft (15.2 m) in length overall from fishing for PMUS within areas 3 nm from shore (i.e., waters regulated by the government of American Samoa) to approximately 50 nm around the islands of American Samoa. The boundaries of the closed areas are defined by latitude and longitude, and are delineated as straight lines drawn point to point, except for those segments that are bounded by the outer boundary of the EEZ around American Samoa. A vessel owner whose longline vessel was registered for use under a Federal longline general permit and made at least one landing of PMUS in American Samoa on or before November 13, 1997, is exempt from this final rule. An exemption may be registered for use with other vessels owned by the same person; however, exemptions may not be applied to a replacement vessel that is larger than the vessel for which it was originally issued. If more than one person (e.g., a partnership or corporation), owned a large vessel when it was registered for use with a longline general permit, and made at least one landing of a PMUS prior to November 13, 1997, an exemption will be issued to only one person. Exemptions are not transferable between persons.

Comments and Responses

NMFS received sets of comments from three different commenters. These comments generally supported this action. NMFS addresses comments that recommended actions not in this final rule below.

Comment 1: One commenter recommended that the larger domestic longline vessels operating in the EEZ around American Samoa be required to use vessel monitoring system (VMS) units installed by NMFS to facilitate enforcement of the closed areas around American Samoa.

Response: NMFS agrees that VMS would enhance monitoring and enforcement of area closures around American Samoa as demonstrated by its application to the longline area closures around the Hawaiian Islands. However, due to budgetary constraints, NMFS is unable to provide VMS units to all the large longline vessels. NMFS may consider requiring industry to purchase VMS units for those vessels that do not already have them. However, VMS may not be necessary for an effective area closure program with adherence to these new closures and cooperation among the fishermen, both small and large fishing vessel operators and the local community to avoid conflicts and localized depletions of the fisheries.

Comment 2: One commenter recommended a more extensive 100-nm closed area around Rose Atoll, a National Wildlife Refuge. An extended area closure would provide a larger buffer zone around the atoll and safeguard against potential groundings of fishing vessels.

Response: NMFS believes the 50-nm nearshore closure provides adequate protection for the fauna and flora at Rose Atoll, while striking a balance with the needs of large domestic longline fishing vessels for access to offshore fishing grounds.

The final rule is changed from the proposed rule with respect to the coordinates specified for the boundaries of the closed areas around Swains Island and the remainder of the American Samoa islands (Tutuila Island, the Manu'a Islands, and Rose

Atoll). These coordinates describe generally rectangular shapes approximating the radius of 50-nm circles drawn around each island or island group. Although this change will not affect the intent of this action, i.e, establish 50-nm area closures, it corrects and improves the coordinates of the closure area boundaries that were published in the proposed rule. Some of those coordinates in the proposed rule were determined by utilizing outdated technology and information that resulted in area closures substantially greater than those intended by the Council. In another situation, the coordinates published for the area around Swains Island were based on an earlier Council recommendation for a 30-nm closure.

Classification

This final rule has been determined to be not significant for purposes of Executive Order 12866.

On March 30, 2001, NMFS issued a FEIS that analyzes the environmental impacts of U.S. pelagic fisheries in the western Pacific region. This analysis includes the pelagic longline fishery around American Samoa. The FEIS was filed with the Environmental Protection Agency; a Notice of Availability was published on April 6, 2001 (66 FR 18243). In November 2000, the Council prepared a background document/ environmental assessment on the prohibition on fishing for PMUS within closed areas around the islands of American Samoa. Information from this document was used to evaluate and provide the basis for adoption of the preferred alternative contained in the subsequent FEIS.

A FRFA that describes and updates the impact this final rule is likely to have on small entities was prepared and is available from (see **ADDRESSES**). A summary of the FRFA follows.

The need for and objectives of this final rule are stated in the **SUMMARY** and **SUPPLEMENTARY INFORMATION** sections of this document and are not repeated here. No comments on the initial regulatory flexibility analysis or the economic effects of this action were received. This action does not contain reporting and recordkeeping requirements or any compliance requirements that would impact small entities. It will not duplicate, overlap, or conflict with any other Federal rules. This action is taken under authority of the Magnuson-Stevens Fishery Conservation and Management Act and regulations at 50 CFR part 660.

Both large and small longline vessels affected by this final rule are considered to be ''small entities'' under guidelines issued by the Small Business Administration because they are independently owned and operated, and have annual receipts not in excess of $3 million. Based on information provided in the FRFA, this rule could potentially impact an estimated 52 active vessel operators, employing 33 small (equal to or less than less than 50 ft) longline vessels and 19 large (greater than 50 ft) longline vessels, two or three of which may qualify for exemption. It could also potentially impact an additional 22 small vessels, and 10 large vessels, which have inactive longline permits. Albacore trolling vessel operators are not anticipated to be significantly impacted as they have not historically fished in the EEZ around American Samoa. Similarly, impacts on tuna purse seine vessel operators are expected to be low as they are believed to have made a total of only eleven sets in the EEZ around American Samoa over the past decade, and will likely continue fishing outside of the closed area.

NMFS considers that this rule provides a balanced approach that allows large domestic vessels, primarily longliners, to continue fishing within two-thirds of the U.S. exclusive economic zone (EEZ) around American Samoa, while maintaining one-third for use by local small-scale fishing vessels. The overall direct economic impacts of this final rule are not quantifiable, as pelagic fisheries interactions are difficult to document and model due to inadequate data, insufficient knowledge of the biology and population dynamics of the resource, and poor understanding of environmental influences. In addition, how various gears fishing in the same time and area compete for local fishery resources and the effects on availability of the target fish are poorly understood. Although most large vessel fishing effort around American Samoa already takes place outside of the closed area and thus will be unaffected by this measure, some large vessel operators continue to fish within 50 nm of shore. This choice is due to several factors, including greater familiarity with those fishing grounds. It is estimated that the costs of this measure to the operators of these displaced large vessels will average between $1,960 to $4,900 per vessel. These costs, which are between 1 and 2.5 percent of the average annual operating costs of such vessels, depend largely on the size of the individual vessel. Once these displaced vessels become more familiar with the offshore areas, they may anticipate annual increases in vessel gross revenues which will offset the losses resulting from this closure. Current cannery prices, along with higher longline catch rates in offshore areas (as indicated by logbook data), may enable them to recoup, or potentially surpass, the losses resulting from this action.

Four alternatives to this final rule were considered and rejected. The first alternative would have closed waters within 50 nm of Tutuila Island, the Manu'a Islands, and Rose Atoll, and within 30 nm of Swains Island. This alternative was rejected because this approach would have provided unequal and insufficient protection for small vessel operators who chose to fish around Swains Island, as well as for those that might decide to become home ported there. The second alternative would have closed waters within 100 nm around all islands of American Samoa and was rejected because the potential negative economic impacts on large vessels was considered to outweigh the possible benefits to the local small-vessel fishing fleet of approximately 30 active vessels fishing generally within 50 nm from shore. The third alternative would have excluded large U.S. pelagic fishing vessels from waters around American Samoa in which the FMP already prohibits longline fishing by foreign vessels (an area approximately 20 nm around each island) and was rejected because such small closed areas would have provided insufficient protection for the local small-vessel fishing fleet. The fourth alternative to this rule was no action. This alternative was rejected as it would not provide any protection to the small vessel fleet.

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) states that for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as ''small entity compliance guides''. The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rule making process, a small entity compliance guide (compliance guide) was prepared. Copies of this final rule and the compliance guide will be sent to all holders of permits issued for the western Pacific pelagic fisheries. The compliance guide will be available at the following web site http://swr.nmfs.noaa.gov/piao/guides.htm. Copies can also be obtained from the PIAO (see **ADDRESSES**).

On October 1, 2001, NMFS completed an informal Endangered Species Act section 7 consultation on the final rule. The informal consultation concluded

that this action is not likely to adversely affect listed species or critical habitat considered in the March 29, 2001, biological opinion (BiOp) issued by NMFS for authorization of pelagic fisheries under the FMP. The informal consultation stated that there is no information that would indicate that the final rule will alter the potential for impact to listed species or critical habitat from the Federal action as analyzed in the BiOp.

List of Subjects in 50 CFR Part 660

Administrative practice and procedure, American Samoa, Fisheries, Fishing, Guam, Hawaiian Natives, Indians, Northern Mariana Islands, and Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: January 24, 2002.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 660 is amended as follows:

PART 660—FISHERIES OFF WEST COAST STATES AND IN THE WESTERN PACIFIC

1. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. Section 660.12 is amended by adding the definition of ''Large vessel'' and revising the definition of ''Length overall (LOA) or length of a vessel'' as follows:

§ 660.12 Definitions.

* * * * *

Large vessel means, as used in §§ 660.22, 660.37, and 660.38, any vessel greater than 50 ft (15.2 m) in length overall.

Length overall (LOA) or length of a vessel means, as used in §§ 660.21(i) and 660.22, the horizontal distance, rounded to the nearest foot (with any 0.5 foot or 0.15 meter fraction rounded upward), between the foremost part of the stem and the aftermost part of the stern, excluding bowsprits, rudders, outboard motor brackets, and similar fittings or attachments (see Figure 2 to this part). ''Stem'' is the foremost part of the vessel, consisting of a section of timber or fiberglass, or cast forged or rolled metal, to which the sides of the vessel are united at the fore end, with the lower end united to the keel, and with the bowsprit, if one is present, resting on the upper end. ''Stern'' is the aftermost part of the vessel.

* * * * *

3. In § 660.22, paragraph (uu) is added to read as follows:

§ 660.22 Prohibitions.

* * * * *

(uu) Use a large vessel to fish for Pacific pelagic management unit species within an American Samoa large vessel prohibited area except as allowed pursuant to an exemption issued under § 660.38.

4. A new § 660.37, under subpart C, is added to read as follows:

§ 660.37 American Samoa pelagic fishery area management.

(a) *Large vessel prohibited areas.* A large vessel of the United States may not be used to fish for Pacific pelagic management unit species in the American Samoa large vessel prohibited areas as defined in paragraphs (b) and (c) of this section, except as allowed pursuant to an exemption issued under § 660.38.

(b) *Tutuila Island, Manu'a Islands, and Rose Atoll (AS-1).* The large vessel prohibited area around Tutuila Island, the Manu'a Islands, and Rose Atoll consists of the waters of the EEZ around American Samoa enclosed by straight lines connecting the following coordinates:

Point	S. lat.	W. long.
AS-1-A	13° 30′	167° 25′
AS-1-B	15° 13′	167° 25′

and from Point AS-1-A westward along the latitude 13° 30' S. until intersecting the U.S. EEZ boundary with Samoa, and from Point AS-1-B westward along the latitude 15° 13' S. until intersecting the U.S. EEZ boundary with Samoa.(c) Swains Island (AS-2). The large vessel prohibited area around Swains Island consists of the waters of the EEZ around American Samoa enclosed by straight lines connecting the following coordinates:

Point	S. lat.	W. long.
AS-2-A	11° 48′	171° 50′
AS-2-B	11° 48′	170° 20′

and from Point AS-2-A northward along the longitude 171° 50′ W. until intersecting the U.S. EEZ boundary with Tokelau, and from Point AS-2-B northward along the longitude 170° 20′ W. until intersecting the U.S. EEZ boundary with Tokelau.

4. A new § 660.38, under subpart C, is added to read as follows:

§ 660.38 Exemptions for American Samoa large vessel prohibited areas.

(a) An exemption will be issued to a person who currently owns a large vessel, to use that vessel to fish for Pacific pelagic management unit species in the American Samoa large vessel prohibited management areas, if he or she had been the owner of that vessel when it was registered for use with a longline general permit and made at least one landing of Pacific pelagic management unit species in American Samoa on or prior to November 13, 1997.

(b) A landing of Pacific pelagic management unit species for the purpose of this section must have been properly recorded on a NMFS Western Pacific Federal daily longline form that was submitted to NMFS, as required in § 660.14.

(c) An exemption is valid only for a vessel that was registered for use with a longline general permit and landed Pacific pelagic management unit species in American Samoa on or prior to November 13, 1997, or for a replacement vessel of equal or smaller LOA than the vessel that was initially registered for use with a longline general permit on or prior to November 13, 1997.

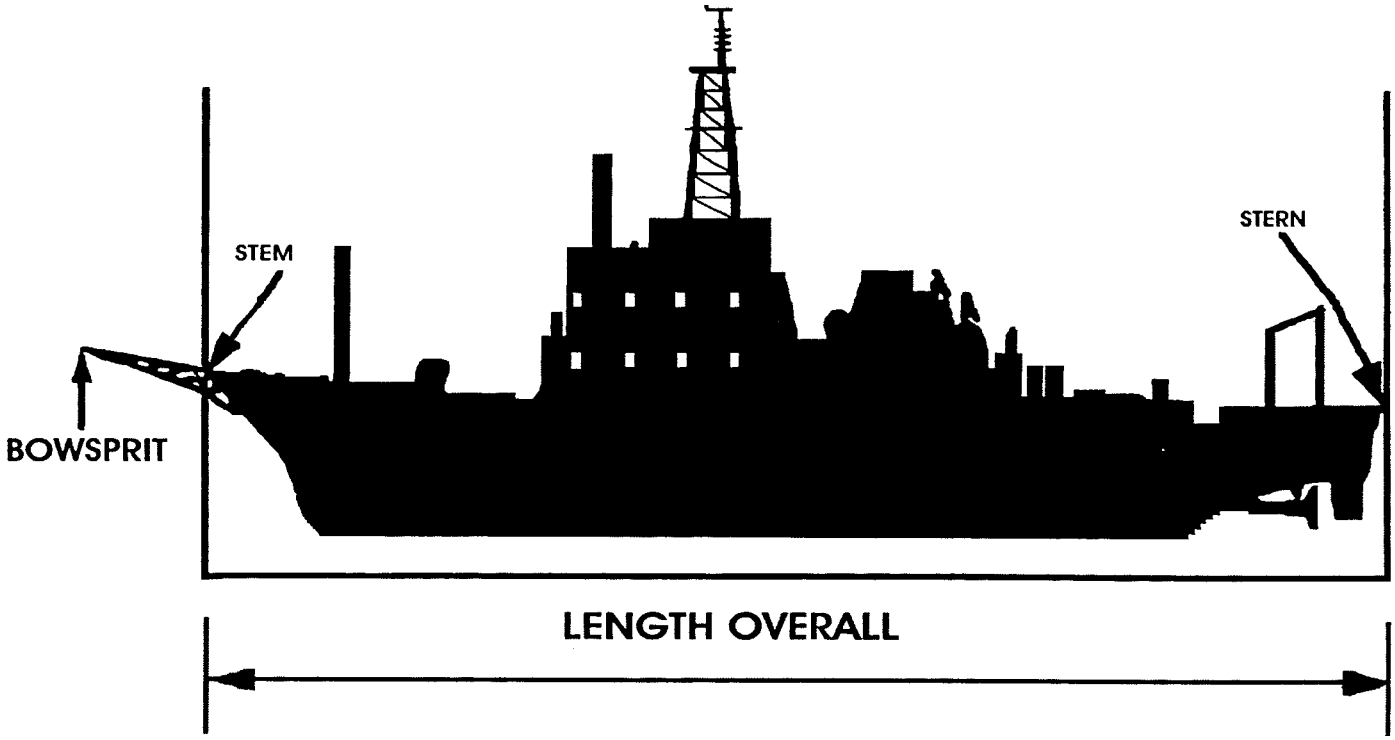
(d) An exemption is valid only for the vessel for which it is registered. An exemption not registered for use with a particular vessel may not be used.

(e) An exemption may not be transferred to another person.

(f) If more than one person, e.g., a partnership or corporation, owned a large vessel when it was registered for use with a longline general permit and made at least one landing of Pacific pelagic management unit species in American Samoa on or prior to November 13, 1997, an exemption issued under this section will be issued to only one person.

5. The caption to Figure 2 to part 660 is revised to read as follows:

Figure 2 to Part 660 - Length of Fishing Vessel



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Rules and Regulations

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DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 28

[Docket No. 02–02]

RIN 1557–AC05

International Banking Activities: Capital Equivalency Deposits

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Interim rule with request for comments.

SUMMARY: The Comptroller of the Currency is amending its regulation regarding the capital equivalency deposits (CED) that foreign banks with Federal branches or agencies must establish and maintain pursuant to section 4(g) of the International Banking Act of 1978. This interim rule revises certain requirements regarding CED deposit arrangements to increase flexibility for and reduce burden on certain Federal branches and agencies, based on a supervisory assessment of the risks presented by the particular institution. The OCC is issuing this rule on an interim basis effective January 30, 2002.

DATES: *Effective Date:* This rule is effective on January 30, 2002.

Comment Date: Comments must be received by April 1, 2002.

ADDRESSES: Please direct comments to: Public Information Room, Office of the Comptroller of the Currency, 250 E Street, SW., Mailstop 1–5, Washington, DC, 20219, Attention: Docket No. 02–02. Comments are available for inspection and photocopying at that address. In addition, comments may be sent by facsimile transmission to number 202–874–4448, or by electronic mail to *regs.comments@occ.treas.gov.* Due to recent, temporary disruptions in the OCC's mail service, commenters are encouraged to use e-mail delivery if possible.

FOR FURTHER INFORMATION CONTACT: Martha Clarke, Counsel, Legislative and Regulatory Activities Division, 202–874–5090; or Carlos Hernandez, International Advisor, International Banking and Finance Division, 202–874–4730.

SUPPLEMENTARY INFORMATION: This interim rule revises certain requirements regarding CED deposit arrangements to increase flexibility and reduce burden by permitting the OCC to impose deposit requirements based on the same supervision by risk approach that it uses in its supervision of national banks. The interim rule revises 12 CFR 28.15(d) to clarify that the OCC may vary the terms of CED Agreements (Agreement) based on the circumstances and supervisory risks present at a particular branch or agency. For example, an Agreement may permit a foreign bank to withdraw assets from its CED account, reducing the net value of the assets held in the account without OCC approval, as long as the withdrawal does not reduce the value below the minimum CED level required for that institution. Moreover, it may not be necessary in all cases for a foreign bank to pledge its CED assets to the OCC or for the depository bank to be a signatory to the Agreement unless required by the OCC. The OCC will make these determinations on a case by case basis, consistent with its supervisory assessment of the risks presented by the particular institution.

Comment Solicitation

The OCC requests comment on all aspects of this interim rule.

The OCC also requests comment on whether the interim rule is written clearly and is easy to understand. On June 1, 1998, the President issued a memorandum directing each agency in the Executive branch to write its rules in plain language. This directive applies to all new proposed and final rulemaking documents issued on or after January 1, 1999. In addition, Public Law 106–102 requires each Federal agency to use plain language in all proposed and final rules published after January 1, 2000. The OCC invites comments on how to make this rule clearer. For example, you may wish to discuss:

(1) Whether we have organized the material to suit your needs;

(2) Whether the requirements of the rule are clear; or

(3) Whether there is something else we could do to make the rule easier to understand.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the OCC certifies that this proposal will not have a significant economic impact on a substantial number of small entities. The principal effect of the rule is to remove several requirements with respect to deposit arrangements for the CED and reduce burden on qualifying foreign banks with Federal branches and agencies.

Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, Public Law 104–4 (Unfunded Mandates Act) requires that an agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. The OCC has determined that the interim rule will not result in expenditures by State, local, or tribal governments or by the private sector of $100 million or more. Accordingly, the OCC has not prepared a budgetary impact statement or specifically addressed the regulatory alternatives considered.

Executive Order 12866

The OCC has determined that this rule does not constitute a ''significant regulatory action'' for the purposes of Executive Order 12866.

Effective Date

The rule is effective immediately on an interim basis. Pursuant to 5 U.S.C. 553, agencies may issue a rule without public notice and comment when the agency, for good cause, finds that such notice and public comment are impracticable, unnecessary, or contrary

to the public interest. Section 553 also permits agencies to issue a rule without delaying its effectiveness if the agency finds good cause for the immediate effective date.

The OCC finds good cause to issue this rule without notice and public comment and without a delayed effective date. The change will enable the OCC to make determinations on a case by case basis, consistent with its supervisory assessment of the risks presented by a particular institution, as to whether a foreign bank should continue to be required to pledge its CED assets to the OCC or to obtain the OCC's approval to reduce the aggregate value of the CED assets by withdrawal. These requirements are costly and burdensome, and where they are not required for safety and soundness reasons, it is in the public interest to make this interim rule effective immediately so that qualifying foreign banks that do not pose safety or soundness issues may take advantage immediately of the cost savings and burden reduction benefits of the change. The OCC is seeking public comment on all aspects of this interim rule and will consider those comments when promulgating the final rule. The OCC will publish in the **Federal Register** a response to any significant adverse comments received, along with modifications to the rule, if any.

Subject to certain exceptions, 12 U.S.C. 4802(b)(1) provides that new regulations and amendments to regulations prescribed by a federal banking agency that impose additional reporting, disclosure, or other new requirements on an insured depository institution must take effect on the first day of a calendar quarter that begins on or after the date on which the regulations are published in final form. The interim rule imposes no additional reporting, disclosure, or other new requirements on insured depository institutions. Instead it removes restrictions for qualifying foreign banks with Federal branches and agencies. For this reason, section 4802(b)(1) does not apply to this rulemaking.

Paperwork Reduction Act

The OCC may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The information collection requirements contained in 12 CFR Part 28 have been approved under OMB control number 1557–0102.

The information collection requirements contained in this rule are contained in section 28.15(d). Under this section as amended, capital equivalency deposits may not be reduced in value below the minimum required for that branch or agency without prior OCC approval, and Federal branches and agencies are required to maintain records.

Estimated number of respondents: 35.

Estimated number of responses: 35.

Estimated burden hours per response: 1 hour.

Estimated number of recordkeepers: 35.

Estimated number of recordkeeping burden hours:

Estimated total burden hours:

The OCC has a continuing interest in the public's opinion regarding collections of information. Members of the public may submit comments regarding any aspects of the collections of information to Jessie Dunaway, OCC Clearance Officer, 250 E Street, SW., Mailstop 8–4, Washington, DC 20219. Due to the temporary delay in mail delivery, you may prefer to send your comments by electronic mail to: *jessie.dunaway@occ.treas.gov.*

The OCC invites comments on:

(1) Whether the collections of information are necessary for the proper performance of the agency's functions, including whether the information has practical utility:

(2) The accuracy of the estimate of the burden;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected;

(4) Ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology;

(5) Estimates of capital or start-up costs and costs of operation, maintenance, and purchases of services to provide information.

List of Subjects in 12 CFR Part 28

Foreign banking, National banks, Reporting and recordkeeping requirements.

Authority and Issuance

For the reasons set forth in the preamble, the OCC amends part 28 of chapter I of title 12 of the Code of Federal Regulations as follows:

PART 28—INTERNATIONAL BANKING ACTIVITIES

1. The authority citation for part 28 is amended to read as follows:

Authority: 12 U.S.C. 1 *et seq.,* 24(Seventh), 93a, 161, 602, 1818, 3101 *et seq.*, and 3901 *et seq.*

2. In § 28.15, paragraphs (d)(1) and (d)(2) are revised to read as follows:

§ 28.15 Capital equivalency deposits.

* * * * *

(d) * * *

(1) May not be reduced in value below the minimum required for that branch or agency without the prior approval of the OCC;

(2) Must be maintained pursuant to an agreement prescribed by the OCC that shall be a written agreement entered into with the OCC for purposes of section 8 of the Federal Deposit Insurance Act, 12 U.S.C. 1818; and

* * * * *

Dated: January 18, 2002.

John D. Hawke, Jr.,

Comptroller of the Currency.

[FR Doc. 02–2171 Filed 1–29–02; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NE–45–AD; Amendment 39–12595; AD 2002–01–04]

RIN 2120–AA64

Airworthiness Directives; General Electric Company CF6–80E1 Model Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to General Electric Company CF6–80E1 model turbofan engines. This action requires flex borescope inspections of high pressure turbine (HPT) stage two (S2) nozzle guide vanes (NGV) installed in CF6–80E1 model turbofan engines. This amendment is prompted by an uncontained engine failure attributed to HPT S2 NGV distress. The actions specified in this AD are intended to prevent blade failure from HPT S2 NGV distress, which could result in an uncontained engine failure.

DATES: Effective February 14, 2002. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of February 14, 2002.

Comments for inclusion in the Rules Docket must be received on or before April 1, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation

Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–NE–45–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may be inspected at this location, by appointment, between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Comments may also be sent via the Internet using the following address: ''*9-ane-adcomment@faa.gov*''. Comments sent via the Internet must contain the docket number in the subject line.

The service information referenced in this AD may be obtained from General Electric Company via Lockheed Martin Technology Services, 10525 Chester Road, Suite C, Cincinnati, Ohio 45215, telephone (513) 672–8400, fax (513) 672–8422. This information may be examined, by appointment, at the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Karen Curtis, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone: (781) 238–7192; fax: (781) 238–7199.

SUPPLEMENTARY INFORMATION: On July 25, 2001, an uncontained engine failure (engine case only) and in flight shutdown (IFSD) occurred on a CF6–80E1 engine installed in an Airbus A330 airplane. There was no nacelle penetration or aircraft damage as a result of this event. However, similar events have occurred on other CF6 engine models with similar design HPT S2 NGV's that have resulted in nacelle penetration and minor airplane damage. HPT NGV's modified per GE Aircraft Engines (GE) Service Bulletin (SB) 72–0164, part numbers (P/N's) 1647M84G09/G10, are more susceptible to airfoil outer fillet cracking. This cracking can propagate to a condition where the nozzle segment sags backward and contacts the HPT Stage 2 blade row. This contact can progress to notching of the blade airfoil at the root and lead to blade failure. The actions specified in this AD are intended to prevent blade failure from HPT S2 NGV distress, which could result in an uncontained engine failure.

Manufacturer's Service Information

The FAA has reviewed and approved the technical contents of GE SB CF6–80E1 S/B 72–0217, dated October 25, 2001, and S/B 72–0217, Revision 1, dated January 14, 2002 that describe procedures for initial and repetitive flex borescope inspection of HPT S2 NGV P/N's 1647M84G09/G10.

FAA's Determination of an Unsafe Condition and Required Actions

Although none of these affected engine models are used on any airplanes that are registered in the United States, the possibility exists that the engine models could be used on airplanes that are registered in the United States in the future. This AD is being issued to prevent blade failure from HPT S2 NGV distress, which could result in an uncontained engine failure. This AD requires flex borescope inspections of HPT S2 NGV's installed in CF6–80E1 model turbofan engines. The actions are required to be done in accordance with the service bulletin described previously.

Immediate Adoption of This AD

Since there are currently no domestic operators of this engine model, notice and opportunity for prior public comment are unnecessary. Therefore, a situation exists that allows the immediate adoption of this regulation.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2001–NE–45–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Analysis

This final rule does not have federalism implications, as defined in Executive Order 13132, because it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with state authorities prior to publication of this final rule.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2002–01–04 General Electric Company: Amendment 39–12595. Docket No. 2001–NE–45–AD.

Applicability

This airworthiness directive (AD) is applicable to General Electric Company CF6–80E1 engine models with high pressure turbine (HPT) stage 2 (S2) nozzle guide vane (NGV) part numbers (P/N's) 1647M84G09 or 1647M84G10. These engines are installed on, but not limited to, Airbus A330 airplanes.

Note 1: This AD applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (f) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance

Compliance with this AD is required as indicated, unless already done. To prevent blade failure from HPT S2 NGV distress, which could result in an uncontained engine failure, do the following.

Previously Flex Borescope Inspected NGV's

(a) For NGV P/N's 1647M84G09 or 1647M84G10 that have been flex borescope inspected before the effective date of this AD, re-reinspect the NGV's in accordance with Conditions and Re-inspection intervals listed in the ''Inspection Table for Cracking in the Airfoil Outer Fillet,'' Figure 5, of GE Aircraft Engines (GE) Service Bulletin (SB) CF6–80E1 S/B 72–0217, dated October 25, 2001 or S/B 72–0217, Revision 1, dated January 14, 2002, or within 250 cycles-in-service-since-last inspection (CSLI), whichever is earlier.

NGV's Not Previously Inspected

(b) For NGV's P/N's 1647M84G09 or 1647M84G10 not previously flex borescope inspected, inspect in accordance with the Accomplishment Instructions of GE SB CF6–80E1 S/B 72–0217, Revision 1, dated January 14, 2002, as follows:

(1) For NGV's with 1,200 or more cycles-since-overhaul (CSO) on the effective date of this AD, flex borescope inspect within 50 cycles-in-service (CIS) after the effective date of this AD.

(2) For NGV's with 1,200 or fewer CSO on the effective date of this AD, flex borescope inspect at the first regular HPT blade inspection after 1,200 CSO, but before reaching 1,250 CSO.

Reinspection

(c) Re-inspect or remove from service NGV's in accordance with the Conditions and Re-inspection intervals listed in the ''Inspection Table for Cracking in the Airfoil Outer Fillet,'' Figure 5, of GE SB CF6–80E1 S/B 72–0217, Revision 1, dated January 14, 2002.

Cycles-Since-Overhaul Defined

(d) For the purposes of this proposed AD, cycles-since-overhaul (CSO) is defined as cycles since repair as described in GE SB CF6–80E1 S/B 72–0164, dated March 16, 1999.

Engines Not Affected by this AD

(e) Engines configured with HPT S2 NGV P/N's 1647M84G05 or 1647M84G06, or 2080M47G01 or 2080M47G02 are not affected by this AD.

Alternative Methods of Compliance

(f) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office (ECO). Operators must submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, ECO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Boston ECO.

Special Flight Permits

(g) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be done.

Documents That Have Been Incorporated by Reference

(h) The inspection must be done in accordance with GE Aircraft Engines Service Bulletin CF6–80E1 S/B 72–0217, dated October 25, 2001 or S/B 72–0217, Revision 1, dated January 14, 2002. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from General Electric Company via Lockheed Martin Technology Services, 10525 Chester Road, Suite C, Cincinnati, Ohio 45215, telephone (513) 672–8400, fax (513) 672–8422. Copies may be inspected, by appointment, at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(i) This amendment becomes effective on February 14, 2002.

Issued in Burlington, Massachusetts, on January 15, 2002.

Thomas A. Boudreau,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 02–1692 Filed 1–29–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–385–AD; Amendment 39–12609; AD 2002–01–15]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 767–200, –300, and –300F Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Boeing Model 767–200, –300, and –300F series airplanes. This action requires repetitive inspections of the lubrication passage and link assembly joint in the inboard and outboard flaps of the trailing edge for discrepancies, and corrective action, if necessary. This action is necessary to prevent failure of the bearings in the link assembly joint, which could result in separation of the outboard flap and consequent loss of control of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective February 14, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 14, 2002.

Comments for inclusion in the Rules Docket must be received on or before April 1, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–385–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-iarcomment@faa.gov*. Comments sent via fax or the Internet must contain ''Docket No. 2001–NM–385–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box

3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: John Craycraft, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2782; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: The FAA has received reports indicating that fractured bearings and blocked lubrication passages of the link assembly joint in the inboard and outboard flaps of the trailing edge were found on certain Boeing Model 767 series airplanes. The fractured bearings cause looseness in the joint, resulting in damage to the joint pin, the link assembly bore, and another joint fitting. The bearings were thought to have fractured due to lack of lubrication to the joint, which was caused by shot peen pellets blocking the lubrication passage. However, further data revealed that failure of the bearings can occur even when they are properly lubricated. Such failure in the link assembly joint, if not found and fixed, could result in separation of the outboard flap and consequent loss of control of the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 767–27A0167, dated December 7, 2000, which describes procedures for initial and repetitive inspections of the lubrication passage and link assembly joint in the inboard and outboard flaps of the trailing edge for discrepancies (blocked lubrication passage, fractured bearings, loose or damaged joint). The service bulletin also provides corrective action for the repetitive inspections and states that it eliminates the need for continued inspections. The corrective action includes removal and inspection of the link assembly for damage, and replacement of the link assembly with a new assembly if damage is found.

Explanation of the Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, this AD is being issued to prevent failure of the bearings in the link assembly joint. This AD requires repetitive inspections of the lubrication passage and link assembly joint in the inboard and outboard flaps of the trailing edge for discrepancies, and corrective action, if necessary. The actions are required to be accomplished in accordance with the service bulletin described previously, except as discussed below.

Differences Between Alert Service Bulletin and This AD

Part 2 of the Accomplishment Instructions of the service bulletin provides for a terminating action that involves replacing the link assemblies in the inboard and outboard flaps of the trailing edge. Because of the recent failure of a bearing that was properly lubricated, the FAA does not currently recognize that action as terminating action for the repetitive inspections described previously. Therefore, while this AD requires replacement of the link assemblies as corrective action, the FAA does not recognize such replacement as terminating action, so the repetitive inspections must continue.

The compliance time for the initial inspections of the lubrication passage and link assembly joint in the inboard and outboard flaps of the trailing edge, as specified in the service bulletin, is within 90 days for Group 1 airplanes, or within 18 months for Group 2 airplanes. For airplanes that have done Part 2 of the service bulletin, this AD requires the initial inspection be done within 6 months after the effective date of this AD. For airplanes that have not done Part 2 of the service bulletin, this AD requires the initial inspection be done within 90 days after the effective date of this AD or within 36 months after date of manufacture of the airplane, whichever is later.

The service bulletin also specifies doing follow-on repetitive inspections every 60 days if the lubrication passage is blocked and no fractured bearing or loose or damaged joint is found, until accomplishment of the terminating action within 24 months after the initial inspections. This AD requires doing repetitive inspections every 30 days if the lubrication passage is blocked and no fractured bearing or loose or damaged joint is found, then accomplishment of the corrective action within 6 months after doing the initial inspections, and repetitive inspections every 6 months after that. This AD also requires doing the repetitive inspections every 6 months if the lubrication passage is not blocked and no fractured bearing or loose or damaged joint is found. The FAA has determined that these compliance times represent the maximum interval of time allowable for affected airplanes to continue to safely operate before the required actions are accomplished.

In addition, the service bulletin does not identify the type of inspection that is involved in the procedures for inspecting the lubrication passage and link assembly joint in the inboard and outboard flaps of the trailing edge. The FAA refers to this inspection in the AD as a ''general visual'' inspection.

Interim Action

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking. The final action may require accomplishment of Part 2 of the Accomplishment Instructions of the service bulletin, in addition to a new terminating action that may be developed. The new action may specifically address the failure of properly lubricated bearings, and the two actions may have different compliance thresholds.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the AD is being requested.

• Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2001–NM–385–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2002–01–15 Boeing: Amendment 39–12609. Docket 2001–NM–385–AD.

Applicability: Model 767–200, –300, and –300F series airplanes, line numbers 1 through 819 inclusive, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the bearings in the link assembly joint in the inboard and outboard flaps of the trailing edge, which could result in separation of the outboard flap and consequent loss of control of the airplane, accomplish the following:

Initial Inspection

(a) Do general visual inspections of the lubrication passage and link assembly joint in the inboard and outboard flaps of the trailing edge for discrepancies (e.g., lubrication passage blocked, fractured bearing, loose or damaged joint), at the times specified in paragraph (a)(1) or (a)(2) of this AD, as applicable; per Part 1 of the Accomplishment Instructions of Boeing Alert Service Bulletin 767–27A0167, dated December 7, 2000.

Note 2: For the purposes of this AD, a general visual inspection is defined as: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

(1) For airplanes that have done Part 2 of the Accomplishment Instructions of the service bulletin: Within 6 months after the effective date of this AD.

(2) For airplanes that have not done Part 2 of the Accomplishment Instructions of the service bulletin: Within 90 days after the effective date of this AD or within 36 months after date of manufacture of the airplane, whichever is later.

Repetitive Inspections/Corrective Action

(b) Do the actions required by paragraph (b)(1), (b)(2), or (b)(3) of this AD, as applicable, at the time specified, per the Accomplishment Instructions of Boeing Alert Service Bulletin 767–27A0167, dated December 7, 2000.

(1) If the lubrication passage is not blocked and no fractured bearing or loose or damaged joint is found, repeat the inspection required by paragraph (a) of this AD every 6 months.

(2) If the lubrication passage is blocked and no fractured bearing or loose or damaged joint is found, repeat the inspection required by paragraph (a) of this AD every 30 days, and within 6 months after doing the initial inspection, do the actions required by paragraph (b)(3) of this AD.

(3) If any fractured bearing or loose or damaged joint is found, before further flight, do the corrective action (including removal of the link assembly, inspection for damage, and replacement with a new assembly if damaged), as specified in Part 2 of the Accomplishment Instructions of the service bulletin. Then repeat the inspections required by paragraph (a) of this AD every 6 months.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO). Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(e) The actions shall be done in accordance with Boeing Alert Service Bulletin 767–27A0167, dated December 7, 2000. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(f) This amendment becomes effective on February 14, 2002.

Issued in Renton, Washington, on January 16, 2002.

Michael J. Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–1691 Filed 1–29–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–199–AD; Amendment 39–12615; AD 2002–01–21]

RIN 2120–AA64

Airworthiness Directives; BAE Systems (Operations) Limited Model BAe 146 Series Airplanes and Avro 146–RJ Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain BAE Systems (Operations) Limited Model BAe 146 series airplanes and Avro 146–RJ series airplanes, that requires replacement of the standby generator with a new, improved standby generator. This amendment is prompted by mandatory continuing airworthiness information from a foreign airworthiness authority. This action is necessary to prevent loss of the standby generator, which, in the event of an emergency involving the principal generator, could result in the loss of electrical power to the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective March 6, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 6, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tamra Elkins, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2669; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain BAE Systems (Operations) Limited Model BAe 146 series airplanes and Avro 146–RJ series airplanes was published in the **Federal Register** on October 12, 2001 (66 FR 52070). That action proposed to require replacement of the standby generator with a new, improved standby generator.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 40 Model BAe 146 series airplanes and Avro 146–RJ series airplanes of U.S. registry will be affected by this AD, that it will take approximately 3 work hours per airplane to accomplish the required replacement of the standby generator with a new, improved standby generator, and that the average labor rate is $60 per work hour. There is no charge for required parts. Based on these figures, the cost impact of the replacement required by this AD on U.S. operators is estimated to be $7,200, or $180 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2002–01–21 BAE Systems (Operations) Limited (Formerly British Aerospace Regional Aircraft): Amendment 39–12615. Docket 2001–NM–199–AD.

Applicability: Model BA–146 series airplanes and Avro 146–RJ series airplanes, certificated in any category, having BAE Modification HCM01059A (installation of a standby generator and control system manufactured by Vickers) embodied.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by

this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of the standby generator, which, in the event of an emergency involving the principal generator, could result in the loss of electrical power to the airplane; accomplish the following:

Replacement

(a) Within 43 months after the effective date of this AD: Replace the Vickers standby generator having part number (P/N) 520829 with a new, improved Vickers standby generator having P/N 3022049–000, in accordance with BAE Systems (Operations) Limited Modification Service Bulletin SB.24–137–01691A, dated April 12, 2001.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(d) The actions shall be done in accordance with BAE Systems (Operations) Limited Modification Service Bulletin SB.24–137–01691A, dated April 12, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in British airworthiness directive 004–04–2001, dated May 22, 2001.

Effective Date

(e) This amendment becomes effective on March 6, 2002.

Issued in Renton, Washington, on January 17, 2002.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–1819 Filed 1–29–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–150–AD; Amendment 39–12614; AD 2002–01–20]

RIN 2120–AA64

Airworthiness Directives; BAE Systems (Operations) Limited Model BAe 146–200A Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain BAE Systems (Operations) Limited Model BAe 146–200A series airplanes, that requires replacement of the signal summing units (SSUs) for the stall identification system with new, improved parts. The actions specified by this AD are intended to prevent stall identification and stall warning signals from occurring at the same time, leading the flight crew to take action based on erroneous information, which could result in reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective March 6, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 6, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1175; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain BAE Systems (Operations) Limited Model BAe 146–200A series airplanes was published in the **Federal Register** on October 29, 2001 (66 FR 54466). That action proposed to require replacement of the signal summing units (SSUs) for the stall identification system with new, improved parts.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 12 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the replacement, and that the average labor rate is $60 per work hour. Required parts will cost between $23,747 and $29,688 per airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be between $285,684 and $356,976, or between $23,807 and $29,748 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not

have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2002–01–20 BAE Systems (Operations) Limited (Formerly British Aerospace Regional Aircraft): Amendment 39–12614. Docket 2001–NM–150–AD.

Applicability: Model BAe 146–200A series airplanes, as listed in BAE Systems (Operations) Limited Modification Service Bulletin SB.27–109–00503C, Revision 3, dated March 19, 2001; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent stall identification and stall warning signals from occurring at the same time, leading the flight crew to take action based on erroneous information, which could result in reduced controllability of the airplane, accomplish the following:

Replacement

(a) Within 1 year after the effective date of this AD, replace signal summing units (SSUs), part number C81606–3, for the stall identification system with new SSUs having part number C81606–5, according to BAE Systems (Operations) Limited Modification Service Bulletin SB.27–109–00503C, Revision 3, dated March 19, 2001.

Note 2: Replacement of SSUs having part number C81606–3 with new SSUs having part number C81606–5 accomplished according to British Aerospace Modification Service Bulletin SB.27–109–00503C, Revision 1, dated November 12, 1990; or Revision 2, dated February 4, 2000; is acceptable for compliance with paragraph (a) of this AD.

Spares

(b) As of the effective date of this AD, no person shall install an SSU, part number C81606–3, on any airplane.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(e) The actions shall be done in accordance with BAE Systems (Operations) Limited Modification Service Bulletin SB.27–109–00503C, Revision 3, dated March 19, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 4: The subject of this AD is addressed in British airworthiness directive 009–06–90.

Effective Date

(f) This amendment becomes effective on March 6, 2002.

Issued in Renton, Washington, on January 17, 2002.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–1818 Filed 1–29–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–71–AD; Amendment 39–12612; AD 2002–01–18]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A319, A320, and A321 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A319, A320, and A321 series airplanes, that requires replacement of the trigger spring of the slide bar on each of the passenger doors with a new, stronger trigger spring. This action is necessary to prevent corrosion of the trigger spring on the slide bar of the passenger doors, which could result in incorrect locking of the slide bar and, during deployment of the escape slide, lead to a delay in evacuating passengers in an emergency. This action is intended to address the identified unsafe condition.

DATES: Effective March 6, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 6, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, FAA, Transport

Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington, telephone (425) 227–2125, fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Airbus Model A319, A320, and A321 series airplanes was published in the **Federal Register** on August 31, 2001 (66 FR 45950). That action proposed to require replacement of the trigger spring of the slide bar on each of the passenger doors with a new, stronger trigger spring.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

Request To Revise Proposed Compliance Time

The commenter requests that the FAA revise the compliance time of paragraph (a) of the proposed AD to refer to ''30 months after the 'entry in service' of the airplane'' instead of ''30 months from the date of manufacture of the airplane.'' The commenter points out that the date of manufacture is the date of the first flight of the airplane, whereas the date of ''entry into service'' is the date of delivery of the airplane. The difference between these dates could be one month or more. The commenter notes that its recommended change would make the FAA's proposed AD consistent with the corresponding French AD.

We do not concur. For clarification, we define the ''date of manufacture'' as the date of issuance of the Certificate of Airworthiness. We find that this constitutes a definitive date when all of the manufacturing processes are completed. We have determined that this date should be readily discernible by operators, and no change to the final rule is necessary in this regard.

Explanation of Change to Applicability Statement

The FAA has determined that the wording of the applicability statement in the proposed AD may be confusing for some operators. Therefore, we have revised the wording of the applicability statement of this final rule for clarity.

Conclusion

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the change described previously. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

The FAA estimates that 152 Model A319, A320, and A321 series airplanes of U.S. registry will be affected by this AD, that it will take approximately 8 work hours per airplane to accomplish the required replacement, and that the average labor rate is $60 per work hour. Required parts will be provided at no charge by the manufacturer. Based on these figures, the cost impact of this AD on U.S. operators is estimated to be $72,960, or $480 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2002–01–18 Airbus Industrie: Amendment 39–12612. Docket 2001–NM–71–AD.

Applicability: Model A319, A320, and A321 series airplanes; all serial numbers having received Airbus Modification 20234 (Airbus Service Bulletin A320–25–1055) (installation of telescopic girt bar for slide raft), but NOT having received Airbus Modification 28212 (Airbus Service Bulletin A320–52–1102, Revision 01, dated November 25, 1999); certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent corrosion of the trigger spring on the slide bar of the forward and aft passenger doors, which could result in incorrect locking of the slide bar during deployment of the escape slide and lead to a delay in evacuating passengers in an emergency, accomplish the following:

Replacement

(a) Within 18 months of the effective date of this AD or within 30 months after the date of manufacture of the airplane, whichever occurs later: Replace the carbon-steel trigger spring having part number (P/N) D5211046420000 on each of the forward and aft passenger doors with a stainless steel trigger spring having P/N D5211046420200, in accordance with Airbus Service Bulletin A320–52–1102, Revision 01, dated November 25, 1999.

Spares

(b) As of the effective date of this AD, no person shall install a carbon-steel trigger

spring having P/N D5211046420000, on any airplane.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Manager, International Branch, ANM–116.

Special Flight Permits

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(e) The actions shall be done in accordance with Airbus Service Bulletin A320–52–1102, Revision 01, dated November 25, 1999. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in French airworthiness directive 2001–063(B), dated February 21, 2001.

Effective Date

(f) This amendment becomes effective on March 6, 2002.

Issued in Renton, Washington, on January 17, 2002.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–1817 Filed 1–29–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–CE–36–AD; Amendment 39–12610, AD 2002–01–16]

RIN 2120–AA64

Airworthiness Directives; Fairchild Aircraft, Inc. SA26, SA226, and SA227 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes Airworthiness Directive (AD) 86–24–11 and AD 86–25–04, which require you to incorporate, into the Limitations Section of the pilot's operating handbook and airplane flight manual (POH/AFM) of Fairchild Aircraft, Inc. (Fairchild Aircraft) SA226 and SA227 series airplanes, procedures for preventing an engine flameout while in icing conditions. This AD retains the POH/AFM requirements from the above-referenced AD's and requires a modification to the torque sensing system to allow the igniters to automatically turn on when an engine senses low torque. This AD is the result of two instances of a dual engine flameout on the affected airplanes. When the torque sensing system modification is incorporated, the POH/AFM requirements are no longer necessary. The actions specified by this AD are intended to prevent a dual engine flameout on the affected airplanes by providing a system that automatically turns on the engine igniters when low torque is sensed. A dual engine flameout could result in failure of both engines with consequent loss of control of the airplane.

DATES: This AD becomes effective on March 11, 2002.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of March 11, 2002.

ADDRESSES: You may get the service information referenced in this AD from Fairchild Aircraft, Inc., P.O. Box 790490, San Antonio, Texas 78279–0490; telephone: (210) 824–9421; facsimile: (210) 820–8609. You may view this information at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel,Attention: Rules Docket No. 2000–CE–36–AD, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ingrid Knox, Aerospace Engineer, FAA, Airplane Certification Office, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150; telephone: (817) 222–5139; facsimile: (817) 222–5960.

SUPPLEMENTARY INFORMATION:

Discussion

What Events Have Caused This AD?

Several occurrences of dual-engine flameout on aircraft caused FAA to examine the service history of certain type-certificated airplanes. Among those examined were the Fairchild Aircraft SA26, SA226, and SA227 series airplanes.

Our analysis reveals the following:

—Two incidents of dual-engine flameout on Fairchild Aircraft SA227 series airplanes; and

—The incidents are unique to the specific airplane configuration and not the generic engine installation.

What Are the Consequences if the Condition Is Not Corrected?

A dual engine flameout could result in failure of both engines with consequent loss of control of the airplane.

Has FAA Taken Any Action to This Point?

We issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Fairchild Aircraft SA26, SA226, and SA227 series airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on May 30, 2001 (66 FR 29268). The NPRM proposed to require you to incorporate a kit that would modify the torque sensing system to allow the igniters to automatically turn on when an engine senses low torque.

Was the Public Invited To Comment?

The FAA encouraged interested persons to participate in the making of this amendment. We did not receive any comments on the proposed rule or the FAA's determination of the cost to the public.

During the comment period, we realized that the following AD's relate to this subject:

—AD 86–24–11, Amendment 39–5481, which applies to Fairchild Aircraft SA226 series airplanes; and

—AD 86–25–04, Amendment 39–5485, which applies to Fairchild SA227 series airplanes.

These AD's require you to incorporate, into the Limitations Section of the pilot's operating handbook and airplane flight manual (POH/AFM) of Fairchild Aircraft, Inc. (Fairchild Aircraft) SA226 and SA227 series airplanes, procedures for preventing an engine flameout while in icing conditions.

When the torque sensing system modification is incorporated, the POH/AFM requirements are no longer necessary. Therefore, we are superseding these AD's in this action.

FAA's Determination

What Is FAA's Final Determination on This Issue?

After careful review of all available information related to the subject presented above, we have determined that air safety and the public interest require the adoption of the rule as proposed except for the change described above and minor editorial corrections. We determined that these changes:

- Will not change the meaning of the AD; and
- Will not add any additional burden upon the public than was already proposed.

Cost Impact

How Many Airplanes Does This AD Impact?

We estimate that this AD affects 259 airplanes in the U.S. registry.

What Is the Cost Impact of This AD on Owners/Operators of the Affected Airplanes?

We estimate the following costs to accomplish the modification:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
16 workhours × $60 per hour = $960	Ranges between $1,726 and $6,873 per airplane (we will use a figure of $4,000).	$4,960 per airplane	$1,284,640

Compliance Time of This AD

What is the Compliance Time of This AD?

The compliance time of the required modification is within the next 6 calendar months after the effective date of this AD.

Why Is the Compliance Time Presented in Calendar Time Instead of Hours Time-In-Service (TIS)?

Although a dual-engine flameout could only occur on the affected airplanes during airplane operation, the condition is not directly related to airplane usage. The condition exists on the airplanes regardless of whether the airplane has accumulated 50 hours time-in-service (TIS) or 5,000 hours TIS.

The FAA has determined that the 6-calendar-month compliance time:

- Gives all owners/operators of the affected airplanes adequate time to schedule and accomplish the actions in this AD; and
- Ensures that the unsafe condition referenced in this AD will be corrected within a reasonable time period without inadvertently grounding any of the affected airplanes.

Regulatory Impact

Does This AD Impact Various Entities?

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

Does This AD Involve a Significant Rule or Regulatory Action?

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. FAA amends § 39.13 by removing both Airworthiness Directive (AD) 86–24–11, Amendment 39–5481, and AD 86–25–04, Amendment 39–5485; and by adding a new AD to read as follows:

2002–01–16 Fairchild Aircraft, Inc.: Amendment 39–12610, Docket No. 2000–CE–36–AD; Supersedes AD 86–24–11, Amendment 39–5481, and AD 86–25–04, Amendment 39–5485.

(a) *What airplanes are affected by this AD?* This AD affects the following airplane models and serial numbers that are certificated in any category:

Model	Serial numbers
SA26–AT	AT100 through AT180E.
SA226–AT	AT001 through AT074.
SA226–T	T201 through T275, and T277 through T291.
SA226–T(B)	T276 and T292 through T417.
SA226–TC	TC201 through TC419.
SA227–AC	AC406, AC415, AC416, AC420 through AC633, AC637, AC638, AC641 through AC644, AC647, AC648, AC651, AC652, AC656, and AC657.
SA227–AT	AT423 through AT631.
SA227–TT	TT421 through TT547.

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the airplanes identified in paragraph (a) of this AD must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to prevent a dual engine flameout on the affected airplanes by providing a system that automatically turns on the engine igniters when low torque is sensed. A dual engine flameout could result in failure of both engines with consequent loss of control of the airplane.

(d) *What actions must I accomplish to address this problem?* To address this problem, you must accomplish the following:

Actions	Compliance	Procedures
(1) Incorporate, into the Limitations Section of the pilot's operating handbook and airplane flight manual (POH/AFM), the procedures included as Appendix 1 or Appendix 2 of this AD, as applicable. Following these procedures is intended to prevent an engine flameout while in icing conditions.	For all airplanes except for the Model SA26–AT airplanes: within the next 50 hours time-in-service (TIS) after December 15, 1986 (the effective date of AD 86–24–11 and AD 86–25–04), unless already accomplished (compliance with either AD 86–24–11 or AD 86–25–04, as applicable). For the Model SA26–AT airplanes: within the next 50 hours TIS after March 11, 2002 (the effective date of this AD).	Procedures are included in Appendix 1 and Appendix 2 of the AD.
(2) Incorporate the kit specified in the applicable service bulletin. This kit modifies the torque sensing system to allow the igniters to automatically turn on when an engine senses low torque.	Within the next 6 calendar months after March 11, 2002 (the effective date of this AD).	Accomplish the modification in accordance with the instructions provided with the kit that is referenced in either Fairchild Aircraft Service Bulletin 26–74–30–048 (FA Kit Drawing 26K82301), Revised: April 13, 2000; Fairchild Aircraft Service Bulletin No. 226–74–003 (FA Kit Drawing 27K82087), Issued: March 21, 2000; Fairchild Aircraft Service Bulletin 227–74–003 (FA Kit Drawing 27K82087), Issued: March 21, 2000; or Fairchild Aircraft Service Bulletin 227–74–001, Issued: July 8, 1986, as applicable.
(3) You may remove the POH/AFM procedures as required by paragraph (1) of this AD after accomplishing the modification required in paragraph (d)(2) of this AD.	You may remove the procedures at any time after accomplishing the modification. You can accomplish the modification at any time, but you must accomplish it within the next 6 calendar months after March 11, 2002 (the effective date of this AD).	Not applicable.

Note 1: The POH/AFM procedures that are included in Appendix 1 and Appendix 2 of this AD (required by paragraph (d)(1) of this AD) are retained from AD 86–24–11, Amendment 39–5481, and AD 86–25–04, Amendment 39–5485. No further action is required by paragraph (d)(1) of this AD if you are already in compliance with AD 86–24–11 or AD 86–25–04. As specified in paragraph (d)(3) of this AD, these POH/AFM procedures are no longer necessary after accomplishment of the modification in paragraph (d)(2) of this AD.

(e) *Can I comply with this AD in any other way?* You may use an alternative method of compliance or adjust the compliance time if:

(1) Your alternative method of compliance provides an equivalent level of safety; and

(2) The Manager, Fort Worth Airplane Certification Office (ACO), approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Fort Worth ACO.

Note 2: This AD applies to each airplane identified in paragraph (a) of this AD, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Ingrid Knox, Aerospace Engineer, FAA, Airplane Certification Office, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150; telephone: (817) 222–5139; facsimile: (817) 222–5960.

(g) *What if I need to fly the airplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your airplane to a location where you can accomplish the requirements of this AD.

(h) *Are any service bulletins incorporated into this AD by reference?* The modification required by this AD must be done in accordance with instructions provided with the kit that is referenced in either Fairchild Aircraft Service Bulletin 26–74–30–048 (FA

Kit Drawing 26K82301), Revised: April 13, 2000; Fairchild Aircraft Service Bulletin No. 226–74–003 (FA Kit Drawing 27K82087), Issued: March 21, 2000; Fairchild Aircraft Service Bulletin 227–74–003 (FA Kit Drawing 27K82087), Issued: March 21, 2000; or Fairchild Aircraft Service Bulletin 227–74–001, Issued: July 8, 1986, as applicable. The Director of the Federal Register approved this incorporation by reference under 5 U.S.C. 552(a) and 1 CFR part 51. You can get copies from Fairchild Aircraft, Inc., P.O. Box 790490, San Antonio, Texas 78279–0490. You can view this information at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

(i) *When does this amendment become effective?* This amendment becomes effective on March 11, 2002.

Appendix 1—Supplement to the POH/AFM for Fairchild Aircraft Models SA26–AT, SA226–AT, SA226–T, SA226–T(B), and SA226–TC Airplanes

The IGNITION MODE switches shall be selected to AUTO/CONT during all operations in actual or potential icing conditions described herein:

(1) During takeoff and climb out in actual or potential icing conditions.

*(2) When ice is visible on, or shedding from propeller(s), spinner(s), or leading edge(s).

*(3) Before selecting ANTI–ICE, when ice has accumulated.

(4) Immediately, any time engine flameout occurs as possible result of ice ingestion.

(5) During approach and landing while in or shortly following flight in actual or potential icing conditions.

***Note:** If icing conditions are entered in flight without the engine anti-icing system having been selected, switch one ENGINE system to an ENGINE HEAT position. If the engine runs satisfactorily, switch the second ENGINE system to an ENGINE HEAT position and check that the second engine continues to run satisfactorily.

For the purpose of this POH/AFM supplement, the following definition applies:

''Potential icing conditions in precipitation or visible moisture meteorological conditions:

(1) Begin when the OAT is plus 5 degrees C (plus 41 degrees F) or colder, and

(2) End when the OAT is plus 10 degrees C (plus 50 degrees F) or warmer.''

The procedures and conditions described in this appendix supersede any other POH/AFM procedures or conditions.

Appendix 2—Supplement to the POH/AFM for Fairchild Aircraft Models SA227–AC, SA227–AT, and SA226–TT Airplanes

The IGNITION MODE switches shall be selected to OVERRIDE or, for those aircraft which have the auto-relite system installed, CONTINUOUS OR AUTO during all operations in actual or potential icing conditions described herein:

(1) During takeoff and climb out in actual or potential icing conditions.

*(2) When ice is visible on, or shedding from propeller(s), spinner(s), or leading edge(s).

*(3) Before selecting ANTI–ICE, when ice has accumulated.

(4) Immediately, any time engine flameout occurs as possible result of ice ingestion.

(5) During approach and landing while in or shortly following flight in actual or potential icing conditions.

***Note:** If icing conditions are entered in flight without the engine anti-icing system having been selected, switch one ENGINE system to an ENGINE HEAT position. If the engine runs satisfactorily, switch the second ENGINE system to an ENGINE HEAT position and check that the second engine continues to run satisfactorily.

For the purpose of this POH/AFM supplement, the following definition applies:

''Potential icing conditions in precipitation or visible moisture meteorological conditions:

(1) Begin when the OAT is plus 5 degrees C (plus 41 degrees F) or colder, and

(2) End when the OAT is plus 10 degrees C (plus 50 degrees F) or warmer.''

The procedures and conditions described in this appendix supersede any other POH/AFM procedures or conditions.

Issued in Kansas City, Missouri, on January 17, 2002.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–1816 Filed 1–29–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–07–AD; Amendment 39–12611; AD 2002–01–17]

RIN 2120–AA64

Airworthiness Directives; Dornier Model 328–100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to all Dornier Model 328–100 series airplanes. This action requires revising the Airplane Flight Manual to provide the flight crew with the appropriate procedures necessary to verify correct operation of the primary alternating current (AC) pump of the main hydraulic system before takeoff. This action is necessary to prevent takeoff with an inoperative pump, which could result in an extended takeoff roll or a rejected takeoff, and consequent runway overrun, structural damage to the airplane, and possible injury to occupants. This action is intended to address the identified unsafe condition.

DATES: Effective February 14, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 14, 2002.

Comments for inclusion in the Rules Docket must be received on or before March 1, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–07–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9–anm-iarcomment@faa.gov.* Comments sent via the Internet must contain ''Docket No. 2002–NM–07–AD'' in the subject line and need not be submitted in triplicate. Comments sent via fax or the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in this AD may be obtained from FAIRCHILD DORNIER, DORNIER Luftfahrt GmbH, P.O. Box 1103, D–82230 Wessling, Germany. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tom Groves, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1503; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, recently notified the FAA that an unsafe condition may exist on all Dornier Model 328–100 series airplanes. The LBA advises that an operator reported that during flight there was an advisory message on the Crew Alerting System showing ''HYD MAIN PMP INOP.'' The ''HYD PWR MAIN'' button was in the on position, but illuminated ''OFF.'' Investigation revealed that a

circuit breaker had popped and the alternating current (AC) main pump motor had failed. Subsequent testing revealed that it was possible to have an inoperative AC hydraulic pump without pre-flight indication to the pilot. The AC pump provides hydraulic power to the brakes, ground spoiler, anti-skid control box, and nose wheel steering. Takeoff with an inoperative pump could result in an extended takeoff roll or a rejected takeoff, and consequent runway overrun, structural damage to the airplane, and possible injury to occupants.

Service Information

The manufacturer has issued Dornier 328 All Operators Telefaxes (AOT) AOT–328–29–018 and AOT–328–29–019, both dated September 20, 2001, which describe procedures for revising the Normal Procedures section of the Airplane Flight Manual (AFM) to provide the flight crew with the appropriate procedures necessary to verify correct operation of the primary AC pump of the main hydraulic system before takeoff.

The LBA classified the AOTs as mandatory and issued German airworthiness directive 2001–358, dated December 13, 2001, in order to assure the continued airworthiness of these airplanes in Germany.

FAA's Conclusions

This airplane model is manufactured in Germany and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the LBA has kept the FAA informed of the situation described above. The FAA has examined the findings of the LBA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD is being issued to prevent takeoff with an inoperative primary AC pump of the main hydraulic system, which could result in an extended takeoff roll or a rejected takeoff, and consequent runway overrun, structural damage to the airplane, and possible injury to occupants. This AD requires revising the Normal Procedures section of the FAA-approved AFM to provide the flight crew with the appropriate procedures necessary to verify correct operation of the pump before takeoff.

Difference Between This AD and German Airworthiness Directive

The German airworthiness directive mandates doing the AFM revision before the next flight of the airplane. This AD allows operators 10 days to complete the required AFM revision. The FAA recognizes the severity of the unsafe condition presented by this situation, but finds a 10-day compliance time appropriate in consideration of the safety implications, the average utilization of the fleet, and the practical aspects of planning and scheduling accomplishment of the required AFM revision. We have considered all these factors and have determined that this compliance time will not adversely affect the continued operational safety of the fleet.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the AD is being requested.
- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2002–NM–07–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2002–01–17 Dornier Luftfahrt GMBH: Amendment 39–12611. Docket 2002–NM–07–AD.

Applicability: All Model 328–100 series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent takeoff with an inoperative primary AC pump of the main hydraulic system, which could result in an extended takeoff roll or a rejected takeoff, and consequent runway overrun, structural damage to the airplane, and possible injury to occupants; accomplish the following:

Airplane Flight Manual (AFM) Revision

(a) Within 10 days after the effective date of this AD: Revise the Normal Procedures Section of the Dornier 328 FAA-approved AFM to incorporate the procedures specified in Dornier 328 All Operators Telefax (AOT) AOT–328–29–018, or AOT–328–29–019, both dated September 20, 2001, as applicable, by inserting a copy of the AOT into the AFM.

(b) When the procedures in the applicable AOT specified in paragraph (a) of this AD have been incorporated into the FAA-approved general revisions of the AFM, the general revisions may be incorporated into the AFM, and the AOT may be removed from the AFM.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 1: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(e) The AFM revision required by paragraph (a) of this AD shall be done in accordance with Dornier 328 All Operators Telefax AOT–328–29–018, dated September 20, 2001; or Dornier 328 All Operators Telefax AOT–328–29–019, dated September 20, 2001; as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from FAIRCHILD DORNIER, DORNIER Luftfahrt GmbH, P.O. Box 1103, D–82230 Wessling, Germany. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 2: The subject of this AD is addressed in German airworthiness directive 2001–358, dated December 13, 2001.

Effective Date

(f) This amendment becomes effective on February 14, 2002.

Issued in Renton, Washington, on January 17, 2002.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–1821 Filed 1–29–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–362–AD; Amendment 39–12618; AD 2002–01–24]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9–81, –82, –83, and –87 Series Airplanes, and Model MD–88 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–9–81, –82, –83, and –87 series airplanes, and Model MD–88 airplanes, that requires replacing the dust seals of the passenger service unit (PSU) panels of the overhead stowage compartment with new dust seals. The AD provides two options to accomplish this. Operators can either replace the seals all at once or remove the seals and repetitively clean and inspect the area to defer the installation for an interim period. The actions specified by this AD are intended to ensure replacement of dust seals of the lower PSU panel that may contribute to the spread of a fire when ignition occurs from electrical arcing of a failed light holder assembly, which could cause damage to adjacent structure and smoke emitting from the PSU panel into the passenger cabin. This action is intended to address the identified unsafe condition.

DATES: Effective March 6, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 6, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Albert Lam, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5346; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–9–81, –82, –83, and –87 series airplanes, and Model MD–88 airplanes, was published in the **Federal Register** on August 3, 2001 (66 FR 40645). That action proposed to require replacement of the dust seals of the passenger service unit (PSU) panels of the overhead stowage compartment with new dust seals.

Explanation of Relevant Service Information

Since the proposed AD was published, the FAA has reviewed and approved Boeing Service Bulletin MD80–25–377, Revision 01, dated July 17, 2001. (The proposed AD cited the original service bulletin as the appropriate source of service information for the procedures for the dust seal replacement.) Revision 01 was issued to clarify the procedures for trimming the dust seal to facilitate its installation; no other significant changes were made.

Boeing had previously issued Alert Service Bulletin MD80–25A376, dated September 21, 2000, which describes

procedures for removal of the lower dust seals from the outboard PSU panels, repetitive cleaning of the oxygen canisters and PSU components (including the removal of all visible traces of dust and dirt particles from the oxygen canisters), and repetitive inspections to ensure that the oxygen masks, hoses, and lanyards do not bind in the PSU door. The repetitive cleaning and inspections would extend the time to install new PSU dust seals.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Request To Provide Interim Actions

Two commenters request that the proposed AD be revised to provide interim actions that would extend the compliance time to install new dust seals. The commenters state that, once a seal is removed from the airplane, and the PSU panel is periodically cleaned of accumulated dust and lint, the potential fire source from the affected seal no longer exists. The commenters suggest a compliance time of 6 months to initiate the interim actions, a repetitive interval of 14 months, and a compliance time of 5 years to replace the seal—based on the availability of materials, manpower, and maintenance facilities.

The FAA partially concurs. The FAA agrees that, once the affected dust seals are removed from the airplane, the potential fire source from the seals no longer exists. However, the accumulation of dust and lint on the oxygen canister and within the PSU panel may create another fire source, which would be minimized or mitigated by the installation of new dust seals. The FAA finds that repetitive cleaning and inspections are acceptable for a period of time, but reliance on these interim repetitive actions to provide an adequate degree of safety for the fleet over a 5-year period is not appropriate.

In determining the appropriate compliance time for the interim actions, the FAA considered the compliance time for the entire replacement action, as proposed, which indicated that no action is necessary for 24 months. Earlier inspections (e.g., at 6 months as the commenter suggests) are therefore unnecessary.

In determining the appropriate compliance time for the seal replacement, the FAA considered additional relevant factors. Certain airplanes affected by this AD are also subject to the requirements of AD 2000–11–01, amendment 39–11749 (65 FR 34322, May 26, 2000), which requires replacement of certain insulation blankets within 5 years. The FAA considers that replacing the insulation blankets and the dust seals concurrently would greatly reduce the cost of accomplishing the actions separately. In addition, extending the compliance times for the seal replacement will provide additional time for operators to procure parts and schedule maintenance. In consideration of these factors, as well as the safety implications, parts availability, and maintenance schedules for timely accomplishment of the actions, the FAA finds it appropriate to require the seal installation within 42 months.

Under the provisions of the Administrative Procedure Act, changing the proposed AD to shorten the proposed compliance time and add new actions would necessitate that the FAA reissue the notice, reopen the period for public comment, consider any additional comments received, and eventually issue a final rule. The FAA has determined that further delay of this action is not appropriate. Therefore, this final rule has been revised to provide operators two options to comply with this AD:

1. Accomplish the entire replacement within 24 months, as proposed; or

2. Accomplish the replacement action in three separate actions by removing the seals (within 24 months) and repetitively cleaning and inspecting the area thereafter (at 14-month intervals) until the new seals are installed (within 42 months).

Support for the Proposal

One commenter, an operator, generally supports the proposal but offers an estimate of the cost impact on its fleet. The commenter states that replacing the dust seal would take approximately 32 work hours per airplane, rather than 24 work hours as estimated in the proposed AD, and the required materials would cost approximately $1,500 per airplane, rather than $3,000 as previously estimated.

In light of this information, the FAA considers it appropriate to revise the cost estimates in the final rule.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 529 airplanes of the affected design in the worldwide fleet. The FAA estimates that 261 airplanes of U.S. registry will be affected by this AD.

It will take approximately 4 work hours per airplane to remove the dust seals, at an average labor rate of $60 per work hour. Based on these figures, the estimated cost impact to remove the seals is $240 per airplane.

It will take approximately 4 work hours per airplane to clean and inspect the PSU, at an average labor rate of $60 per work hour. Based on these figures, the estimated cost impact of the cleaning and inspection is $240 per airplane, per inspection cycle.

It will take approximately 30 hours to install new dust seals, at an average labor rate of $60 per work hour. Required parts for the seal installation will cost approximately $1,500 per airplane. Based on these figures, the estimated cost impact of the seal installation is $3,300 per airplane.

The concurrent accomplishment of all seal replacement actions would result in a reduction in cost of approximately $240 per inspection cycle that would no longer be required.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44

FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2002–01–24 McDonnell Douglas: Amendment 39–12618. Docket 2000–NM–362–AD.

Applicability: Model DC–9–81, –82, –83, and –87 series airplanes, and Model MD–88 airplanes, as listed in Boeing Service Bulletin MD80–25–377, dated March 14, 2001; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To ensure replacement of dust seals of the lower passenger service unit (PSU) panel that may contribute to the spread of a fire when ignition occurs from electrical arcing of a failed light holder assembly, which could cause damage to adjacent structure and smoke emitting from the PSU panel into the passenger cabin, accomplish the following:

Replacement of Dust Seals

(a) Do the actions specified by either paragraph (a)(1) or (a)(2) of this AD.

(1) Within 24 months after the effective date of this AD, replace dust seals of the PSU panels of the overhead stowage compartment with new dust seals (including removing adhesive, cleaning the PSU rail, and removing/installing tape), per Boeing Service Bulletin MD80–25–377, dated March 14, 2001, or Revision 01, dated July 17, 2001. After the effective date of this AD, only Revision 01 of the service bulletin may be used.

(2) At the applicable times, do the actions specified by paragraphs (a)(2)(i), (a)(2)(ii), and (a)(2)(iii) of this AD.

(i) Within 24 months after the effective date of this AD, remove all the lower dust seals having part number (P/N) CD1149 (any configuration) from the left and right outboard PSU panels from station Y = 218.000 to Y = 1307.000, per Boeing Alert Service Bulletin MD80–25A376, dated September 21, 2000.

(ii) Within 24 months after the effective date of this AD, remove all visible traces of dust and dirt particles from the oxygen canisters installed in the PSU panels, and perform a general visual inspection to ensure that oxygen masks, hoses, and lanyards do not bind in the PSU door; per Boeing Alert Service Bulletin MD80–25A376, dated September 21, 2000. Thereafter, repeat the actions specified by paragraph (a)(2)(ii) of this AD at least every 14 months until the requirements of paragraph (a)(2)(iii) of this AD have been accomplished.

Note 2: For the purposes of this AD, a general visual inspection is defined as: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or drop-light, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

(iii) Within 42 months after the effective date of this AD, install new dust seals, part number (P/N) CD1437, of the PSU panels of the overhead stowage compartment, per Boeing Service Bulletin MD80–25–377, Revision 01, dated July 17, 2001. Installation of the new dust seals terminates the requirements of paragraph (a)(2)(ii) of this AD.

Note 3: Installation of the dust seal prior to the effective date of this AD in accordance with Boeing Service Bulletin MD80–25–377, dated March 14, 2001, is acceptable for compliance with the requirements of paragraph (a)(2)(iii) of this AD.

Spares

(b) As of the effective date of this AD, no person shall install a dust seal, P/N CD1149 (any configuration), on any airplane.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(e) The actions shall be done in accordance with Boeing Alert Service Bulletin MD80–25A376, dated September 21, 2000; Boeing Service Bulletin MD80–25–377, dated March 14, 2001; and Boeing Service Bulletin MD80–25–377, Revision 01, dated July 17, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(f) This amendment becomes effective on March 6, 2002.

Issued in Renton, Washington, on January 18, 2002.

Michael Kaszycki,

Acting Manager,Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–1961 Filed 1–29–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–112–AD; Amendment 39–12620; AD 2002–01–25]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model DHC–8–100, –200, and –300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Bombardier Model DHC–8–100, –200, and –300 series airplanes, that requires repetitive inspections of the rudder pedal adjustment fittings for cracks and replacement of cracked fittings with new fittings. This amendment also provides an optional terminating action. This action is necessary to detect and correct cracking of the rudder pedal adjustment fittings, which could lead to deformation of the fittings, resulting in jammed rudder pedals and loss of rudder control, with consequent reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective March 6, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 6, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Bombardier, Inc., Bombardier Regional Aircraft Division, 123 Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dan Parrillo, Aerospace Engineer, ANE–172, FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7505; fax (516) 568–2716.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Bombardier Model DHC–8–100, –200, and –300 series airplanes was published in the **Federal Register** on August 29, 2001 (66 FR 45653). That action proposed to require repetitive inspections of the rudder pedal adjustment fittings for cracks and replacement of cracked fittings with new fittings. That action also proposed to provide an optional terminating action.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Explanation of Changes Made to Proposed AD

The FAA has added a note, Note 2, to the final rule to clarify the definition of the detailed visual inspection required by paragraph (a) of this AD. Subsequent notes have been renumbered accordingly.

Also, we have changed paragraph (c) of this AD to clarify that only ''cracked'' fittings are required to be replaced.

Clarification of Terminating Action

Since the issuance of the notice of proposed rulemaking (NPRM), the FAA has also determined that the optional terminating action specified in paragraph (d) of the NPRM needs to be clarified. That paragraph states, ''Replacement of the rudder pedal adjustment fittings having P/N 82710038–101, with steel rudder pedal adjustment fittings having P/N 82710080–101, constitutes terminating action for the repetitive inspections required by paragraphs (a) and (b) of this AD.'' However, the inspection required by paragraph (a) of this AD is not a repetitive inspection. Additionally, it was our intent that operators may elect to accomplish the replacement in lieu of the inspections required by paragraphs (a) and (b) of this AD. Therefore, we have revised paragraph (d) of the final rule to state, ''Replacement of rudder pedal adjustment fittings having P/N 82710038–101, with steel rudder pedal adjustment fittings having P/N 82710080–101, constitutes terminating action for the requirements of this AD.''

Conclusion

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

The FAA estimates that 188 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $11,280, or $60 per airplane, per inspection cycle.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2002–01–25 Bombardier, Inc. (Formerly de Havilland, Inc.): Amendment 39–12620. Docket 2001–NM–112–AD.

Applicability: Model DHC–8–100, –200, and –300 series airplanes, serial numbers 003 to 563 inclusive, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct cracking of the rudder pedal adjustment fittings, which could lead to deformation of the fittings, resulting in jammed rudder pedals and loss of rudder control, with consequent reduced controllability of the airplane, accomplish the following:

Inspections

(a) Perform a detailed visual inspection of the rudder pedal adjustment fittings having part number (P/N) 82710038–101 for cracks, in accordance with Bombardier Alert Service Bulletin A8–27–91, dated September 12, 2000, or Revision A, dated November 23, 2000, at the times specified in paragraphs (a)(1) and (a)(2) of this AD.

(1) Within 5,000 flight hours since the date of manufacture of the airplane or 500 flight hours after the effective date of this AD, whichever occurs later; and

(2) Prior to further flight, whenever an instance of stiff operation or jamming of the rudder pedals occurs during flight.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

(b) If no crack is detected: Repeat the inspection of the rudder pedal adjustment fittings having P/N 82710038–101, in accordance with Bombardier Alert Service Bulletin A8–27–91, dated September 12, 2000, or Revision A, dated November 23, 2000, at intervals not to exceed 1,000 flight hours, until accomplishment of paragraph (d) of this AD.

Replacement

(c) If any crack is detected: Prior to further flight, replace the cracked rudder pedal adjustment fitting having P/N 82710038–101 with a new aluminum fitting having the same P/N (82710038–101), or with a steel fitting having P/N 82710080–101, in accordance with Bombardier Alert Service Bulletin A8–27–91, dated September 12, 2000, or Revision A, dated November 23, 2000.

Terminating Action

(d) Replacement of rudder pedal adjustment fittings having P/N 82710038–101, with steel rudder pedal adjustment fittings having P/N 82710080–101, constitutes terminating action for the requirements of this AD.

Alternative Methods of Compliance

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, New York Aircraft Certification Office, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

Special Flight Permits

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(g) The actions shall be done in accordance with Bombardier Alert Service Bulletin A8–27–91, dated September 12, 2000; or Bombardier Alert Service Bulletin A8–27–91, Revision A, dated November 23, 2000. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Bombardier, Inc., Bombardier Regional Aircraft Division, 123 Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 4: The subject of this AD is addressed in Canadian airworthiness directive CF–2001–04, dated January 25, 2001.

Effective Date

(h) This amendment becomes effective on March 6, 2002.

Issued in Renton, Washington, on January 18, 2002.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–1962 Filed 1–29–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–128–AD; Amendment 39–12613; AD 2002–01–19]

RIN 2120–AA64

Airworthiness Directives; Fokker Model F.28 Mark 0070 and 0100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Fokker Model F.28 Mark 0070 and 0100 series airplanes, that requires repetitive operational tests for discrepancies of the heating system of pitot tube #1, and replacement of the pitot tube, if necessary. This AD also requires eventual modification of the alternating current sensing circuit for pitot tube #1, which terminates the repetitive operational test requirement. This action is necessary to prevent failure of the heating system of pitot tube #1 due to a short circuit, which may go undetected and lead to the pilot receiving erroneous airspeed indications, resulting in reduced control of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective March 6, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 6, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Fokker Services B.V., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, FAA,

Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1137; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Fokker Model F.28 Mark 0070 and 0100 series airplanes was published in the **Federal Register** on November 5, 2001 (66 FR 55896). That action proposed to require repetitive operational tests for discrepancies of the heating system of pitot tube #1, and replacement of the pitot tube, if necessary. That action also proposed to require eventual modification of the alternating current sensing circuit for pitot tube #1, which would terminate the repetitive operational test requirement.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 129 airplanes of U.S. registry will be affected by this AD.

It will take approximately 1 work hour per airplane to accomplish the required operational test, at the average labor rate of $60 per work hour. Based on these figures, the cost impact of the operational test required by this AD on U.S. operators is estimated to be $7,740, or $60 per airplane, per test cycle.

It will take approximately 34 work hours per airplane to accomplish the required modification, at the average labor rate of $60 per work hour. Required parts will cost approximately $350 per airplane. Based on these figures, the cost impact of the modification required by this AD on U.S. operators is estimated to be $308,310, or $2,390 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2002–01–19 Fokker Services B.V.: Amendment 39–12613. Docket 2001–NM–128–AD.

Applicability: Model F.28 Mark 0070 and 0100 series airplanes, serial numbers 11244 through 11585 inclusive, on which Fokker Service Bulletin SBF100–30–019 or SBF100–30–020 has been accomplished, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the heating system of pitot tube ı1 due to a short circuit, which may go undetected and lead to the pilot receiving erroneous airspeed indications, resulting in reduced control of the airplane, accomplish the following:

Operational Test

(a) Within 3 months after the effective date of this AD, do an operational test for discrepancies (i.e., correct functioning) of the heating system of pitot tube ı1, according to Fokker Service Bulletin SBF100–30–025, Revision 1, dated March 14, 2001. Repeat the operational test every 12 months, until paragraph (d) of this AD has been done.

Replacement of Pitot Tube

(b) If any discrepancy is found during the operational test required by paragraph (a) of this AD: Before further flight, replace pitot tube ı1 with a new pitot tube, according to Fokker Service Bulletin SBF100–30–025, Revision 1, dated March 14, 2001.

Reporting Requirement

(c) At the applicable time specified in paragraph (c)(1) or (c)(2) of this AD: Use page 38 of Fokker Service Bulletin SBF100–30–025, Revision 1, dated March 14, 2001, to submit a report of findings from each operational test (both positive and negative) to Fokker Services B.V., Attn: Manager Airline Support, P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

(1) For airplanes on which the operational test is accomplished after the effective date of this AD: Submit the report within 5 days after performing the test required by paragraph (a) of this AD.

(2) For airplanes on which the operational test is accomplished before the effective date of this AD: Submit the report within 5 days after the effective date of this AD.

Modification

(d) Within 36 months after the effective date of this AD, modify the alternating current (AC) sensing circuit for pitot tube #1 (including removing the supply current wire from the AC current sensor for the pitot tube, removing the wire that grounds the heating system of pitot tube #1, installing the supply

current wire to the inverter, installing the return current wire from pitot tube #1 to the AC current sensor, and grounding the AC current sensor), according to Fokker Service Bulletin SBF100–30–025, Revision 1, dated March 14, 2001. Such modification terminates the repetitive operational tests required by paragraph (a) of this AD.

Alternative Methods of Compliance

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(f) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(g) The actions shall be done in accordance with Fokker Service Bulletin SBF100–30–025, Revision 1, dated March 14, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Fokker Services B.V., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(h) This amendment becomes effective on March 6, 2002.

Issued in Renton, Washington, on January 17, 2002.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–1963 Filed 1–29–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–382–AD; Amendment 39–12617; AD 2002–01–23]

RIN 2120–AA64

Airworthiness Directives; Raytheon Model Beech 400, 400A, and 400T Series Airplanes; Model Beech MU–300–10 Airplanes; and Model Mitsubishi MU–300 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Raytheon Model Beech 400, 400A, and 400T series airplanes; Model Beech MU–300–10 airplanes; and Model Mitsubishi MU–300 airplanes. This action requires repetitive inspections to detect cracking in the radius of the cutout of the aft flange of the left engine forward carry-through mount bracket, and replacement with a new bracket and fitting if necessary. This action is necessary to prevent failure of the engine mount and possible loss of the engine, and consequent loss of control of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective February 14, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 14, 2002.

Comments for inclusion in the Rules Docket must be received on or before April 1, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001-NM–382-AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-iarcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2001-NM–382-AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in this AD may be obtained from Raytheon Aircraft Company, Department 62, P.O. Box 85, Wichita, Kansas 67201–0085. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: David Ostrodka, Senior Aerospace Engineer, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4129; fax (316) 946–4407.

SUPPLEMENTARY INFORMATION: The FAA has been advised that certain engine mounts on affected airplanes have developed cracks. One operator discovered cracking during a routine inspection on the aft flange of the left engine forward carry-through mount bracket. Additional airplanes were subsequently inspected, and cracking was discovered in the same location on four airplanes. At the time of the crack findings, all of those airplanes had accumulated between 2,000 and 3,000 total flight hours, and all were equipped with thrust reversers. The cracks originate in the radius of the cutout of the aft flange of the engine mount brackets. The purpose of the cutout is to provide clearance for certain engine components. Because all of these airplanes were equipped with thrust reversers, it was initially determined that the condition would be found only on airplanes with thrust reversers. However, similar cracking was later discovered on a number of airplanes without thrust reversers. The cause of the cracking has not been determined. This condition, if not corrected, could result in failure of the engine mount and possible loss of the engine, and consequent loss of control of the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved Raytheon Safety Communiqué No. 189, Revision 1, dated January 2002, which describes procedures for a one-time visual inspection to detect evidence of cracking of the left engine forward carry-through mount bracket, and a subsequent one-time fluorescent penetrant inspection to detect cracking

in the same area. The communiqué recommends immediate replacement of any cracked bracket with a new bracket and fitting.

Explanation of the Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other Raytheon Model Beech 400, 400A, and 400T series airplanes; Model Beech MU–300–10 airplanes; and Model Mitsubishi MU–300 airplanes of the same type design, this AD is being issued to prevent failure of the engine mount and possible loss of the engine, and consequent loss of control of the airplane. This AD requires repetitive inspections to detect cracking in the radius of the cutout of the aft flange of the left engine forward carry-through mount bracket, and replacement with a new bracket and fitting if necessary. The actions are required to be accomplished in accordance with the service information described previously, except as discussed below.

Requirements for Ferry Flight Permit

The FAA has determined that a ferry flight permit, if granted, must include certain limitations for airplanes equipped with thrust reversers, due to the increased loads and vibration levels associated with thrust reverser operation.

Differences Between AD and Relevant Service Information

The applicability of this AD and the manufacturer's Safety Communiqué No. 189 are identical with the exception of one serial number. For Beech MU–300–10 airplanes, the communiqué specifies serial numbers A1001SA through 1010SA inclusive. The type certification data sheet for this model specifies A1011SA as the last serial number. The FAA assumes serial number A1011SA may have been converted to a different model and reidentified and therefore has determined that it is necessary to include serial number A1011SA in the applicability of this AD to ensure the inclusion of all airplanes subject to the identified unsafe condition.

In addition, Safety Communiqué No. 189 recommends inspection of the subject area via a one-time visual inspection within 25 flight hours (for airplanes with more than 1,500 total flight hours) and a one-time fluorescent penetrant inspection within 50 flight hours. However, in light of the potential severity of the unsafe condition and the uncertainty of the cause of the premature cracking, the FAA finds these recommendations inadequate to address the identified unsafe condition in a timely manner. The FAA has determined that a fluorescent penetrant inspection could detect cracking that a visual inspection might miss. Also, the FAA has determined that the initial inspection must be performed at the earlier of 14 days or 25 flight hours, and that the inspections must be repetitively performed, to timely detect cracking that could contribute to the unsafe condition.

In developing appropriate actions and compliance times for this AD, the FAA considered not only the manufacturer's recommendations, but the availability of parts, the average utilization of the affected fleet, the time necessary to perform an inspection (2 work hours), and the degree of urgency associated with addressing the identified unsafe condition. In light of all of these factors, the FAA finds initial and repetitive fluorescent penetrant inspections to be warranted, in that they will provide more detailed data, allow operators to detect cracking before it becomes a hazard to the structure, and provide the necessary continued operational safety for the fleet.

Interim Action

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the AD is being requested.
- Include justification (e.g., reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket 2001–NM–382–AD.'' The postcard will be date-stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2002–01–23 Raytheon Aircraft Company (Formerly Beech): Amendment 39–12617. Docket 2001–NM–382–AD.

Applicability: The following airplanes, certificated in any category:

TABLE 1.—APPLICABILITY

Model	Serial Numbers
Beech 400 series airplanes	RJ–1 through RJ–65 inclusive.
Beech 400A series airplanes	RK–1 and subsequent.
Beech 400T series airplanes	TT–1 through TT–180 inclusive.
Beech 400T–1 airplanes	TX–1 through TX–11 inclusive.
Beech MU–300–10 airplanes	A1001SA through A1011SA inclusive.
Mitsubishi MU–300 airplanes	A003SA through A091SA inclusive.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the engine mount and possible loss of the engine, and consequent loss of control of the airplane, accomplish the following:

Repetitive Inspections

(a) At the later of the times specified by paragraphs (a)(1) and (a)(2) of this AD: Perform a fluorescent penetrant inspection to detect cracking in the radius of the cutout of the aft flange of the left engine forward carry-through mount bracket, in accordance with Raytheon Safety Communiqué No. 189, Revision 1, dated January 2002. Repeat the inspection thereafter at least every 200 flight hours.

(1) Inspect prior to the accumulation of 1,500 total flight hours; or

(2) Inspect within 25 flight hours or 14 days after the effective date of this AD, whichever occurs first.

Note 2: Accomplishment of a fluorescent penetrant inspection before the effective date of this AD in accordance with Raytheon Safety Communiqué No. 189, dated November 2001, is acceptable for compliance with the requirements for the initial inspection of paragraph (a) of this AD; however, accomplishment of only a visual inspection is not acceptable.

Corrective Action

(b) If any cracking is detected during any inspection required by paragraph (a) of this AD: Prior to further flight, replace the cracked part with a new bracket and fitting in accordance with Raytheon Maintenance Manual, Chapter 54–40–00. The replacement parts are identified in Raytheon Safety Communiqué 189, dated November 2001, or Revision 1, dated January 2002.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Wichita Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO, FAA.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita ACO.

Special Flight Permits

(d) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished, provided the limitations specified by paragraphs (d)(1) and (d)(2) of this AD are included in the special flight permit.

(1) If any cracking is detected during any inspection required by paragraph (a) of this AD, but all cracks are less than one inch in length: Operation of the airplane is permitted to the nearest repair facility, provided the thrust reversers (if installed) are pinned or deactivated during operation.

(2) If a crack of one inch or longer is detected during any inspection required by paragraph (a) of this AD: Operation of the airplane is permitted to the nearest repair facility provided a temporary repair is first accomplished in accordance with a method approved by the Manager, Wichita ACO.

Incorporation by Reference

(e) Except as required by paragraph (b) of this AD: The actions must be done in accordance with Raytheon Safety Communiqué No. 189, Revision 1, dated January 2002. (Only page 1 of this document is dated; no other page contains this information.) This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Raytheon Aircraft Company, Department 62, P.O. Box 85, Wichita, Kansas 67201–0085. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(f) This amendment becomes effective on February 14, 2002.

Issued in Renton, Washington, on January 18, 2002.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–1965 Filed 1–29–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–ANE–17–AD; Amendment 39–12622; AD 2002–01–27]

RIN 2120–AA64

Airworthiness Directives; General Electric Company GE90 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), that is applicable to General Electric Company (GE) GE90–76B, –77B, –85B, –90B, and –92B model turbofan engines. That AD currently requires initial and repetitive eddy current inspections (ECI) for cracks in the high pressure compressor (HPC) stage 2–6 spool, and, if necessary, replacement with serviceable parts. That amendment was prompted by reports of cracks in the stage 3–4 and stage 4–5 interstage seal teeth and spacer arms. This amendment deletes reference to the GE90–92B engine model, deletes reference to HPC spool part number (P/N) 350–005–769–0 and directs the removal from service of affected part number spools by either engine cycles or calendar date, whichever occurs first. This amendment is prompted by the introduction of a new design HPC stage 2–6 spool and four additional HPC stage 2–6 spool P/N's that are terminating action for the repetitive inspection requirements for certain P/N spools. The actions specified by this AD are intended to prevent failure of the HPC stage 2–6 spool due to cracks, which could result in an uncontained engine failure and damage to the airplane.

DATES: Effective February 14, 2002. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of February 14, 2002.

Comments for inclusion in the Rules Docket must be received on or before April 1, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–ANE–17–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may be inspected at this location, by appointment, between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Comments may also be sent via the Internet using the following address: ''9-ane-adcomment@faa.gov''. Comments sent via the Internet must contain the docket number in the subject line.

The service information referenced in this AD may be obtained from General Electric Technical Services, Attention: Leader for distribution/microfilm, 10525 Chester Road, Cincinnati, OH 45215; telephone (513) 672–8400 Ext. 130, fax (513) 672–8422. This information may be examined, by appointment, at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ian Dargin, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7178, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: On July 6, 1998, the Federal Aviation Administration (FAA) issued airworthiness directive (AD) 98–15–03, Amendment 39–10654 (63 FR 37761, July 14, 1998), to require:

- Initial and repetitive eddy current inspection (ECI) for cracks in the high pressure compressor (HPC) stage 2–6 spool spacer arms, forward and aft of the stage 3–4 and stage 4–5 interstage seal teeth, and, if necessary, replacement with serviceable parts.
- A shop level ECI for cracks in the HPC stage 2–6 spool interstage seal teeth, and, if necessary, replacement with serviceable parts.

That action was prompted by reports of cracked HPC stage 2–6 spools installed on General Electric Company (GE) GE90–76B, –77B, –85B, –90B, and –92B model turbofan engines. That condition, if not corrected, could result in failure of the HPC stage 2–6 spool due to cracks, which could result in an uncontained engine failure and damage to the airplane.

Since that AD was issued, the FAA has determined that either of the inspection methods required by the current AD may be used to satisfy either inspection requirement if done in accordance with the applicable Service Bulletins. Furthermore, certain spools have been approved as terminating the need for continuing inspections. Lastly, the FAA has determined that the affected spools are required to be removed from service no later than a specified number of engine cycles or by June 30, 2005, whichever occurs first.

The manufacturer has confirmed the design integrity of two of the spools affected by the current AD, P/N 350–005–770–0 (except for SN LAO37677) and P/N 350–005–771–0. Based on additional test and analysis, these spools need no further inspection. In addition, the manufacturer has introduced a new design HPC stage 2–6 spool, P/N 350–005–780–0 and a repair procedure which creates two other spools part numbers, P/N 350–005–775–0 and P/N 350–005–776–0. With spools having any of these five part numbers installed, this AD will no longer apply to the engine, terminating the requirement for additional inspections. Also, reference to the GE90–92B model is removed from the AD applicability because the manufacturer has informed the FAA that no engines of that model were produced and has requested the FAA remove this model designation from the GE90 Type Certificate. In addition, HPC spool P/N 350–005–769–0 is deleted since the manufacturer has informed the FAA that this P/N spool has never been produced and will not be produced.

Manufacturer's Service Information

The FAA has reviewed and approved the technical contents of GE Service Bulletin No. GE90 S/B 72–0352, Revision 4, dated July 31, 2000, that describes ECI procedures for cracks in the HPC stage 2–6 spool interstage seal teeth, and GE Alert Service Bulletin (ASB) No. GE90 72–A0357, Revision 4, dated July 31, 2000, that describes procedures for ECI for cracks in the HPC stage 2–6 spool spacer arm, forward and aft of the stage 3–4 and stage 4–5 interstage seal teeth. This ASB also removes the inspection requirement for HPC spools P/N 350–005–770–0 (except for S/N LAO37677) and P/N 350–005–771–0.

FAA's Determination of an Unsafe Condition and Required Actions

Although none of these affected engine models are used on any airplanes that are registered in the United States, the possibility exists that the engine models could be used on airplanes that are registered in the United States in the future. Since an unsafe condition has been identified that is likely to exist or develop on other GE90 series turbofan engines of this same type design, this AD is being issued to prevent failure of the HPC stage 2–6 spool due to cracks, which could result in an uncontained engine failure and damage to the airplane. This AD requires:

- Initial and repetitive ECI for cracks in the HPC stage 2–6 spool spacer arms, forward and aft of the stage 3–4 and

stage 4–5 interstage seal teeth, and, if necessary, replacement with a serviceable part.

• A shop level ECI for cracks in the HPC stage 2–6 spool interstage seal teeth, and, if necessary, replacement with serviceable parts.

• Removal of affected part number HPC stage 2–6 spools from service based on either engine cycles or calendar date, whichever occurs first.

The actions must be done in accordance with the service bulletins described previously.

Immediate Adoption of This AD

Since there are currently no domestic operators of these engine models, notice and opportunity for prior public comment are unnecessary. Therefore, a situation exists that allows the immediate adoption of this regulation.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 98–ANE–17–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Analysis

This final rule does not have federalism implications, as defined in Executive Order 13132, because it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with state authorities prior to publication of this final rule.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–10654 (63 FR 37761, July 14, 1998), and by adding a new airworthiness directive, Amendment 39–12622, to read as follows:

2002–01–27 General Electric Company (GE): Amendment 39–12622. Docket No. 98–ANE–17–AD. Supersedes AD 98–15–03, Amendment 39–10654.

Applicability. This airworthiness directive (AD) is applicable to General Electric Company (GE) GE90–76B, –77B, —85B, and –90B turbofan engines, with high pressure compressor (HPC) stage 2–6 spools, part numbers (P/N's) 350–005–761–0, 350–005–765–0, and 350–005–770–0 (serial number (SN) LAO37677 only), installed. These engines are installed on, but not limited to, Boeing 777 airplanes.

Note 1: This AD applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (f) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance. Compliance with this AD is required as indicated, unless already done.

To prevent failure of the HPC stage 2–6 spool due to cracks, which could result in an uncontained engine failure and damage to the airplane, do the following:

(a) Perform initial and repetitive eddy current inspections (ECI) of the spacer arm, forward and aft of the stage 3–4 and 4–5 seal teeth, for cracks in accordance with the Accomplishment Instructions of GE Alert Service Bulletin (ASB) No. GE90 72–A0357, Revision 4, dated July 31, 2000, as follows:

(1) Perform the initial inspection before exceeding 500 cycles-since-new (CSN).

(2) Thereafter, inspect at intervals not to exceed 250 cycles-in-service since last inspection.

(3) Remove the spool from the engine if the ECI reveals a crack indication and replace with a serviceable spool before returning the engine to service.

(4) Inspections required by this paragraph may be performed using an ECI for cracks in the HPC stage 2–6 spool interstage seal teeth in accordance with GE Service Bulletin (SB) No. GE90 S/B 72–0352, Revision 4, dated July 31, 2000.

(b) At each shop visit as defined in paragraph (e) of this AD, perform ECI for cracks in the HPC stage 2–6 spool interstage seal teeth in accordance with the Accomplishment Instructions of GE SB No. GE90 S/B 72–0352, Revision 4, dated July 31, 2000.

(1) Replace spools with a crack indication with a serviceable spool before returning the engine to service.

(2) If the HPC stage 2–6 spool is not exposed, the inspection required by this paragraph may be performed using an ECI for cracks in the HPC spacer arm, forward and aft of the stage 3–4 and 4–5 seal teeth, in accordance with the Accomplishment Instructions of GE ASB No. GE90 72–A0357, Revision 4, dated July 31, 2000.

(c) Remove from service HPC stage 2–6 spools, P/N 350–005–761–0, 350–005–765–0 and 350–005–770–0 (SN LAO37677 only), before accumulating 4,800 CSN for spools on the GE90–76B and –77B engine models and 4,600 CSN for spools on the GE90–85B and the –90B engine models, or by June 30, 2005, whichever occurs first.

Credit for Previous Inspections

(d) Inspections performed before the effective date of this AD using the following SB's may be counted toward satisfying the initial and repetitive inspection requirements of paragraph (a) of this AD:

(1) Inspections completed using GE ASB No. GE90 72–A0357, Revision 2, dated April 21, 1998; or Revision 3, dated October 27, 1999.

(2) Inspections completed during shop visits using GE SB No. GE90 S/B 72–0352, Revision 2, dated March 31, 1998; or Revision 3, dated July 12, 1999.

Definitions

(e) For the purpose of this AD, an engine shop visit is defined as any time an engine has maintenance performed that involves separation of a major engine flange (such as removal of a low pressure turbine module or HPC ''top case''). However, the replacement of the stage 3 and 4 variable stator vane bushings and sealing flanges using GE SB No. GE90 S/B 72–0537, dated June 22, 2001 is not considered a shop visit.

Alternative Methods of Compliance

(f) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office (ECO). Operators must submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, ECO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the ECO.

Special Flight Permits

(g) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be done.

Documents That Have Been Incorporated By Reference

(h) The inspection must be done in accordance with the following General Electric Company GE90 Service Bulletin (SB) and Alert Service Bulletin (ASB):

Document No.	Pages	Revision	Date
SB GE90 S/B 72–0352 ..... Total pages: 33	All	4	July 31, 2000.
ASB GE90 72–A0357 ..... Total pages: 30	All	4	July 31, 2000.

These incorporations by reference were approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from General Electric Technical Services, Attention: Leader for distribution/microfilm, 10525 Chester Road, Cincinnati, OH 45215; telephone (513) 672–8400 Ext. 130, fax (513) 672–8422. Copies may be inspected, by appointment, at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(i) This amendment becomes effective on February 14, 2002.

Issued in Burlington, Massachusetts, on January 18, 2002.

Thomas A. Boudreau,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 02–1984 Filed 1–29–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NE–50–AD; Amendment 39–12623; AD 2002–01–28]

RIN 2120–AA64

Airworthiness Directives; Dowty Aerospace Propellers Type R334/4–82–F/13 Propeller Assemblies

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to Dowty Aerospace Propellers Type R334/4–82–F/13 with propeller hub assemblies, part number (P/N) 660709201. This action requires a one-time ultrasonic inspection of the propeller hub for cracks. This amendment is prompted by a report of an in-flight loss of a propeller. The actions specified in this AD are intended to prevent propeller hub failure due to cracks in the hub, which could result in loss of control of the airplane.

DATES: Effective February 14, 2002. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of February 14, 2002.

Comments for inclusion in the Rules Docket must be received on or before April 1, 2002.

ADDRESSES: Submit comments to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–NE–50–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may be inspected at this location, by appointment, between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Comments may also be sent via the Internet using the following address: ''*9-ane-adcomment@faa.gov*''.

The service information referenced in this AD may be obtained from Dowty Propellers, Anson Business Park, Cheltenham Road East, Gloucester GL2 9QN, UK; telephone 44 (0) 1452 716000; fax 44 (0) 1452 716001. This information may be examined, by appointment, at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Frank Walsh, Aerospace Engineer, Boston Aircraft Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7158; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom (UK), recently notified the FAA that an unsafe condition may exist on Dowty Aerospace Propellers Type R334/4–82–F/13 with propeller hub assemblies, P/N 660709201. On September 23, 2001, a complete R334/4–82–F/13 propeller separated from the engine flange on a Construcciones Aeronauticas, S.A. (CASA) 212 airplane. Laboratory analysis of the retained portion of the hub indicated that fatigue cracks had emanated from multiple origins in five of the eight insert bolt hole locations of the rear half of the hub wall. These fatigue cracks propagated outward in a radial direction relative to the axis of the threaded insert. The fatigue cracks then intersected the spigot diameter and the center bore hole of the hub. The remainder of the hub fracture resulted from fatigue cracks

propagating circumferential to hub failure and release. The CAA also advised the FAA that the CAA received a report of a similar incident on another CASA airplane. The incident date was not provided, but the CAA indicated that it was within the past 1 ½ to 2 year period.

Manufacturer's Service Information

Dowty Aerospace Propellers has issued Service Bulletin (SB) No. 61–1119, Revision 2, dated December 6, 2001, that specifies procedures for ultrasonic inspection of the rear wall of the rear half of the propeller hub for cracks. The CAA classified this service bulletin as mandatory and issued CAA UK AD No. 003–11–2001, dated November 30, 2001, in order to assure the airworthiness of these Dowty Aerospace Propellers in the UK.

Differences Between This AD and the Manufacturer's Service Information

Although Appendix A of Dowty Aerospace Propellers SB No. 61–1119, Revision 2, dated December 6, 2001, requires reporting the inspection data to Dowty Aerospace Propellers, this AD requires that the data be reported to the Boston Aircraft Certification Office of the FAA.

Bilateral Airworthiness Agreement

This propeller model is manufactured in the UK and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, has reviewed all available information, and has determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

FAA's Determination of an Unsafe Condition and Required Actions

Since an unsafe condition has been identified that is likely to exist or develop on other Dowty Aerospace Propellers Type R334/4–82–F/13 with propeller hub assemblies, P/N 660709201, this AD is being issued to prevent propeller hub failure due to cracks in the hub, which could result in loss of control of the airplane. This AD requires a one-time ultrasonic inspection of the rear wall of the rear half of the propeller hub for cracks. The actions must be done in accordance with the service bulletin described previously.

Immediate Adoption of This AD

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** Comments sent via the Internet must contain the docket number in the subject line. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2001–NE–50–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Analysis

This final rule does not have federalism implications, as defined in Executive Order 13132, because it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with state authorities prior to publication of this final rule.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2002–01–28 Dowty Aerospace Propellers: Amendment 39–12623. Docket No. 2001–NE–50–AD.

Applicability

This airworthiness directive (AD) is applicable to Dowty Aerospace Propellers, Type R334/4–82–F/13, with propeller hub assemblies, part number (P/N) 660709201. These propeller hub assemblies are installed on, but not limited to, Construcciones Aeronauticas, S.A. (CASA) 212 airplanes.

Note 1: This AD applies to each propeller identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For propellers that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of

the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance

Compliance with this AD is required as indicated, unless already done.

To prevent propeller hub failure due to cracks in the hub, which could result in loss of control of the airplane, do the following:

Hub Inspection

(a) Within 50 flight hours time-in-service (TIS) after the effective date of this AD, or within 60 days after the effective date of this AD, whichever occurs earlier, perform an ultrasonic inspection of the rear wall of the rear half of the propeller hub for cracks in accordance with Appendix A of Dowty Aerospace Propellers Service Bulletin (SB) No. 61–1119, Revision 2, dated December 6, 2001.

Inspection Reporting Requirements

(b) Record the initial inspection data on a copy of Appendix B, of Dowty Aerospace Propellers SB No. 61–1119, Revision 2, dated December 6, 2001, and report the findings to the Manager, Boston Aircraft Certification Office (ACO), FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299 within 10 days after the inspection. Reporting requirements have been approved by the Office of Management and Budget (OMB) and assigned OMB control number 2120–0056.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Boston ACO. Operators must submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Boston ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Boston ACO.

Special Flight Permits

(d) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be done.

Documents That Have Been Incorporated By Reference

(e) The inspection must be done in accordance with the following Dowty Aerospace Propellers service bulletin (SB):

Document No.	Pages	Revision	Date
SB No. 61–1119	1–2	2	December 6, 2001
Appendix A	1	1	November 27, 2001.
	2	Original	November 1, 2001.
	3–6	1	November 27, 2001.
Appendix B	All	Original	November 1, 2001.
Appendix C	All	Original	November 27, 2001.
Appendix D	All	Original	December 6, 2001.
Total pages: 29			

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Dowty Propellers, Anson Business Park, Cheltenham Road East, Gloucester GL2 9QN, UK; telephone 44 (0) 1452 716000; fax 44 (0) 1452 716001. This information may be examined, by appointment, at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in Civil Aviation Authority airworthiness directive AD 003–11–2001 dated November 30, 2001.

(f) This amendment becomes effective on February 14, 2002.

Issued in Burlington, Massachusetts, on January 18, 2002.

Thomas A. Boudreau,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 02–1983 Filed 1–29–02; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

RIN 0720–AA61

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Enhancement of Dental Benefits Under the TRICARE Retiree Dental Program

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: This final rule implements section 704 of the National Defense Authorization Act for Fiscal Year 2000, to allow additional benefits under the retiree dental insurance plan for Uniformed Services retirees and their family members that may be comparable to those under the Dependents Dental Program.

EFFECTIVE DATE: This final rule is effective October 1, 2000.

ADDRESSES: TRICARE Management Activity (TMA), Special Contracts and Operations Office, 16401 East Centretech Parkway, Aurora, CO 80011–9043.

FOR FURTHER INFORMATION CONTACT: Linda Winter, Special Contracts and Operations Office, TMA, (303) 676–3682.

SUPPLEMENTARY INFORMATION:

I. Background

A. Congressional Action

The TRICARE Retiree Dental Program (TRDP), a voluntary dental insurance plan completely funded by enrollees' premiums, was implemented in 1998 to provide benefits for basic dental care and treatment based on the authority of 10 U.S.C. 1076c. Under the enabling legislation, the benefits that could be provided were limited to ''basic dental care and treatment, involving diagnostic services, preventative services, basic restorative services (including endodontics), surgical services, and emergency services.'' Accordingly, the implementing regulation, 32 CFR 199.22, limited coverage to the most common dental procedures necessary for maintenance of good dental health and did not include coverage of major restorative services, prosthodontics, orthodontics or other procedures considered to be outside of the ''basic dental care and treatment'' range.

In section 704 of the National Defense Authorization Act for Fiscal Year 2000, Pub. L. 106–065, Congress responded to concerns that the enabling legislation was too restrictive in the range of benefits authorized by amending 10 U.S.C. 1076c to allow the Secretary of Defense to offer additional coverage.

Under provisions of the amendment, the TRDP benefits may now be ''comparable to the benefits authorized under section 1076a'' of title 10, the Dependents Dental Plan, commonly known as the TRICARE Family Member Dental Plan. Thus, in addition to the original basic services described above, which continue to be mandated, coverage of ''orthodontic services, crowns, gold fillings, bridges, complete or partial dentures, and such other services as the Secretary of Defense considers to be appropriate'' [10 U.S.C. 1076a(d)(3)] may be covered by the TRDP.

B. Public Comments

On August 14, 2000, an interim final rule was published (65 FR 49491) to allow the additional dental coverage and address the administrative and operational issues associated with the enhanced TRDP benefits. No public comments were received.

II. Provisions of the Rule for Enhancement of TRDP Benefits

A. Primary Provisions of the Interim Final Rule

The interim final rule allows expansion of the TRDP benefits to be comparable to the coverage under Active Duty Dental Plan at 32 CFR 199.13, commonly known as the TRICARE Family Member Dental Plan. It maintains the original basic TRDP coverage, with the original initial and renewal enrollment periods, until contractual arrangements are in place for the additional benefits. Enrollment in the original basic plan will be superseded by enrollment in the enhanced plan. Effective with the implementation of an enhanced plan, new enrollments for basic coverage cease. Enrollees in the basic plan at that time may continue their enrollment for basic coverage, subject to the applicable premium and eligibility provisions, as long as the contract administering that coverage is in effect. Enrollees in the basic plan have an enrollment option at the time of the enhanced plan's implementation.

B. Other Provisions of the Interim Final Rule

One of the aims of the interim final rule was to allow flexibility in the design of an enhanced benefit structure to help keep the increase in premiums within a reasonable range with the addition of the major dental coverage. This takes into account the increase in premiums not only for the increased benefits but the potential increase due to the risk of adverse selection. Adverse selection is the tendency for people who have a greater-than-average likelihood of needing treatment to seek coverage more than those who have a lesser likelihood of needing treatment. Accordingly, the interim final rule provides for renewal enrollment periods of up to 12 months per period for the enhanced benefits, thereby allowing the risk to be spread over a greater period of time than the month-to-month continuing enrollment for the basic coverage. Renewal for the basic program continues to be on a monthly basis. To offset the longer renewal periods, the rule allows a flexibility in the initial enrollment period for the enhanced benefits by permitting it to be in the range of from 12 to 24 months, the exact length to be determined through contractual arrangement. The initial enrollment period for the basis program will continue to be 24 months.

In addition, the interim final rule allows the establishment of an alternative course of treatment policy as in the TFMDP, adds a provision for orthodontic lifetime maximum should an orthodontic benefit be offered, and removes the specific dollar limit on the non-orthodontic annual benefit maximum while retaining the requirement for an annual maximum benefit amount. These changes are being made to permit more flexibility in the design and implementation of an enhanced TRDP benefit structure and allow ways to mitigate the increased risk for adverse selection and unacceptably high premiums that are likely to occur with the addition of major coverage.

Recognizing that occasionally some enrollees experience ''buyers's remorse'' shortly after enrolling in the program, this rule adds a 30-day grace period that allows new enrollees to terminate a TRDP enrollment immediately after enrollment provided no benefits have been used. This is consistent with the legislative mandate that the retiree dental plan be voluntary and provides enrollees an opportunity to further consider their dental needs before they are obligated for the initial enrollment period.

C. Provisions of the Final Rule

The final rule is consistent with the interim final rule.

III. Rulemaking Procedures

Executive Order 12866 requires certain regulatory assessments for any ''significant regulatory action,'' defined as one that would result in an annual effect on the economy of $100 million or more, or have other substantial impacts.

The Regulatory Flexibility Act (RFA) requires that each federal agency prepare, and make available for public comment, a regulatory flexibility analysis when the agency issues a regulation that would have a significant impact on a substantial number of small entities.

This rule has been designated as significant and has been reviewed by the Office Management and Budget as required under the provisions of E.O. 12866.

This rule will not impose additional information collection requirements on the public under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The TRICARE Retiree Dental Program Enrollment Form currently in use was approved in December 2001 and the approval expires December 2003.

List of Subjects in 32 CFR Part 199

Claims, Dental health, Health insurance, Individuals with disabilities, Military personnel.

Accordingly, 32 CFR 199 is amended as follows:

PART 199—[AMENDED]

1. The authority citation for Part 199 continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. chapter 55.

2. Section 199.22 is amended by revising paragraphs (b)(1) and (d)(4); revising paragraph (d)(5); revising paragraph (f) introductory text, introductory paragraph (f)(1), and paragraph (f)(2); revising paragraph (f)(3); and revising paragraph (g) to read as follows:

§ 199.22 TRICARE Retiree Dental Program (TRDP)

* * * * *

(b) * * * (1) At a minimum, benefits are the diagnostic services, preventive services, basic restorative services (including endodontics), oral surgery services, and emergency services specified in paragraph (f)(1) of this section. Additional services comparable to those contained in paragraph (e)(2) of § 199.13 may be covered pursuant to benefit policy decisions made by the Director, OCHAMPUS, or designee.

* * * * *

(d) * * *

(4) *Enrollment periods.*—(i) *Enrollment period for basic benefits.* The initial enrollment for the basic dental benefits described in paragraph (f)(1) of this section shall be for a period of 24 months followed by month-to-month enrollment as long as the

enrollee remains eligible and chooses to continue enrollment. An enrollee's disenrollment from the TRDP at any time for any reason, including termination for failure to pay premiums, is subject to a lockout period of 12 months. After any lockout period, eligible individuals may elect to reenroll and are subject to a new initial enrollment period. The enrollment periods and conditions stipulated in this paragraph apply only to the basic benefit coverage described in paragraph (f)(1) of this section. Effective with the implementation of an enhanced benefit program, new enrollments for basic coverage will cease. Enrollees in the basic program at that time may continue their enrollment for basic coverage, subject to the applicable provisions of this section, as long as the contract administering that coverage is in effect.

(ii) *Enrollment period for enhanced benefits.* The initial enrollment period for enhanced benefit coverage described in paragraph (f)(2) of this section shall be established by the Director, OCHAMPUS, or designee, when such coverage is offered, to be a period of not less than 12 months and not more than 24 months. The initial enrollment period shall be followed by renewal periods of up to 12 months as long as the enrollee chooses to continue enrollment and remains eligible. An enrollee's disenrollment from the TRDP during an enrollment period for any reason, including termination for failure to pay premiums, is subject to a lockout period of 12 months. This lockout provision does not apply to disenrollment during an enrollment grace period as defined in paragraph (d)(5)(ii) of this section or following completion of an initial or renewal enrollment period. Eligible individuals who elect to reenroll following a lockout period or a disenrollment after completion of an enrollment period are subject to a new initial enrollment period.

(5) *Termination of coverage.*—(i) *Involuntary termination.* TRDP coverage is terminated when the member's entitlement to retired pay is terminated, the member's status as a member of the Retired Reserve is terminated, a dependent child loses eligible child dependent status, or a surviving spouse remarries.

(ii) *Voluntary termination.* Regardless of the reason, TRDP coverage shall be canceled, or otherwise terminated, upon written request from an enrollee if the request is received by the TRDP contractor within thirty (30) calendar days following the enrollment effective date and there has been no use of TRDP benefits by the enrolled member, enrolled spouse, or enrolled dependents during that period. If such is the case, the enrollment is voided and all premium payments are refunded. However, use of benefits during this 30-day enrollment grace period constitutes acceptance by the enrollee of the enrollment and the enrollment period commitment. In this case, a request for voluntary disenrollment before the end of the initial enrollment period will not be honored, and premiums will not be refunded.

* * * * *

(f) *Plan benefits.* The Director, OCHAMPUS, or designee, may modify the services covered by the TRDP to the extent determined appropriate based on developments in common dental care practices and standard dental programs. In addition, the Director, OCHAMPUS, or designee, may establish such exclusions and limitations as are consistent with those established by dental insurance and prepayment plans to control utilization and quality of care for the services and items covered by the TRDP.

(1) *Basic benefits.* The minimum TRDP benefit is basic dental care to include diagnostic services, preventive services, basic restorative services (including endodontics), oral surgery services, and emergency services. The following is the minimum TRDP covered dental benefit (using the American Dental Association's The Council on Dental Care Program's Code on Dental Procedures and Nomenclature):

* * * * *

(2) *Enhanced benefits.* In addition to the minimum TRDP services in paragraph (f)(1) of this section, other services that are comparable to those contained in paragraph (e)(2) of § 199.13 may be covered pursuant to TRDP benefit policy decisions made by the Director, OCHAMPUS, or designee. In general, these include additional diagnostic and preventive services, major restorative services, prosthodontics (removable and fixed), additional oral surgery services, orthodontics, and additional adjunctive general services (including general anesthesia and intravenous sedation). Enrollees in the basis plan will be given an enrollment option at the time the enhanced plan is implemented.

(3) *Alternative course of treatment policy.* The Director, OCHAMPUS, or designee, may establish, in accordance with generally accepted dental benefit practices, an alternative course of treatment policy which provides reimbursement in instances where the dentist and TRDP enrollee select a more expensive service, procedure, or course of treatment than is customarily provided. The alternative course of treatment policy must meet the following conditions:

(i) The service, procedure, or course of treatment must be consistent with sound professional standards of generally accepted dental practice for the dental condition concerned.

(ii) The service, procedure, or course of treatment must be a generally accepted alternative for a service or procedure covered by the TRDP for the dental condition.

(iii) Payment for the alternative service or procedure may not exceed the lower of the prevailing limits for the alternative procedure, the prevailing limits or dental plan contractor's scheduled allowance for the otherwise authorized benefit procedure for which the alternative is substituted, or the actual charge for the alternative procedure.

(g) *Maximum coverage amounts.* Each enrollee is subject to an annual maximum coverage amount for non-orthodontic dental benefits and, if an orthodontic benefit is offered, a lifetime maximum coverage amount for orthodontics as established by the Director, OCHAMPUS, or designee.

* * * * *

Dated: January 24, 2002.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 02–2172 Filed 1–29–02; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP MIAMI–01–142]

RIN 2115–AA97

Security Zones; Hutchinson Island, St. Lucia, FL and Turkey Point Biscayne Bay, Florida City, FL

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary security zones around the Florida Power and Light Company power plants located at Hutchinson Island, Saint Lucia, Florida and Turkey Point, Florida City, Florida. These security zones are needed for national security reasons to protect the public and waterways from potential subversive acts. Entry into these zones

is prohibited, unless specifically authorized by the Captain of the Port, Miami, Florida or his designated representative.

DATES: This regulation is effective from 8 p.m. on December 10, 2001 through 11:59 p.m. on June 15, 2002.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of [COTP Miami 01–142] and are available for inspection or copying at Marine Safety Office Miami, 100 MacArthur Causeway, Miami Beach, FL 33319–6940 between 7:30 a.m. and 3 p.m. Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LT Warren Weedon, Coast Guard Marine Safety Office Miami, at (305) 535–4766.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM. Publishing a NPRM and delaying the rule's effective date would be contrary to the public interest since immediate action is needed to protect the public, ports and waterways of the United States. The Coast Guard will issue a broadcast notice to mariners and place Coast Guard vessels in the vicinity of these zones to advise mariners of the restriction.

For the same reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

Background and Purpose

Based on the September 11, 2001, terrorist attacks on the World Trade Center buildings in New York and the Pentagon in Arlington, Virginia, there is an increased risk that subversive activity could be launched by vessels or persons in close proximity to the Florida Power and Light Company power plants located at Hutchinson Island, Saint Lucia, Florida and Turkey Point, Florida City, Florida. The security zone area for Hutchinson Island includes all waters within lines connecting the following points: 27°21.20′ N, 080°16.26′ W; 27°19.18′ N, 080°15.21′ W; 27°20.36′ N, 080°12 83′ W; and 27°22.43′ N, 080°13.8′ W. The security zone area for Turkey Point includes all land and water within lines connecting the following points: 25°26.8′ N, 080°16.8′ W; 25°26.8′ N, 080°21′ W; 25°20′ N, 080°16.8′ W; and 25°20′ N, 080°20.4′ W.

There will be Coast Guard and local police department patrol vessels on scene to monitor traffic through these areas. Entry into these security zones is prohibited, unless specifically authorized by the Captain of the Port, Miami, Florida or his designated representative. During the period, the COTP may issue a Broadcast Notice to Mariners on VHF–FM Channels 16 and 22 (157.1 MHz) notifying mariners when they are allowed to temporarily enter the zone.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. The Office of Management and Budget has not reviewed it under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979) because these zones cover a limited area and vessels may be allowed to enter the zone with the permission of the Captain of the Port.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard considered whether this rule would have a significant economic effect upon a substantial number of small entities. ''Small entities'' include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities because small entities may be allowed to enter on a case by case basis with the authorization of the Captain of the Port.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. If the rule will affect your small business, organization, or government jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding this rule.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

Federalism

A rule has implication for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Environmental

The Coast Guard considered the environmental impact of this rule and concluded under Figure 2–1, paragraph 34(g) of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationships between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or use. We have determined that it is not a ''significant energy action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reports and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165, as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

2. A new temporary § 165.T07–142 is added to read as follows:

§ 165.T07–142 Security Zone; Hutchinson Island, St. Lucie, Florida and Turkey Point, Biscayne Bay, Florida City, Florida.

(a) *Regulated area.* The Coast Guard has established temporary security zones around the Saint Lucie and Turkey Point power plants. The security zone area for Hutchinson Island includes all waters within lines connecting the following points: 27°21.20′ N, 080°16.26′ W; 27°19.18′ N, 080°15.21′ W; 27°20.36′ N, 080°12.83′ W; and 27°22.43′ N, 080°13.8′ W. The security zone area for Turkey Point includes all land and water within lines connecting the following points: 25°26.8′ N, 080°16.8′ W; 25°26.8′ N, 080°21′ W; 25°20′ N, 080°16.8′ W; and 25°20′ N, 080°20.4′ W.

(b) *Regulations.* In accordance with the general regulations in § 165.33 of this part, entry into this zone is prohibited except as authorized by the Captain of the Port, or a Coast Guard commissioned, warrant, or petty officer designated by him. The COTP may issue a Broadcast Notice to Mariners on VHF–FM Channels 16 and 22 (157.1 MHz) notifying mariners when they are allowed to temporarily enter the zone. Law enforcement patrol boats will be on scene and may be contacted on channel 16 VHF/FM.

(c) *Dates.* This section is effective from 8 p.m. on December 10, 2001 through 11:59 p.m. on June 15, 2002.

(d) *Authority.* This section is promulgated under 33 U.S.C. 1226, 33 U.S.C. 1231, 33 CFR 1.05–(g) and 49 CFR 1.46.

Dated: December 10, 2001.

J. A. Watson, IV,

Captain, U.S. Coast Guard,Captain of the Port, Miami, Florida.

[FR Doc. 02–2210 Filed 1–29–02; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AK89

Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA)

AGENCY: Department of Veterans Affairs.

ACTION: Interim final rule.

SUMMARY: This rule implements provisions of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 and the Veterans' Survivor Benefits Improvements Act of 2001. These changes extend CHAMPVA eligibility to persons age 65 and over who would have otherwise lost their CHAMPVA eligibility due to attainment of entitlement to hospital insurance benefits under Medicare Part A. This rule also implements coverage of physical examinations required in connection with school enrollment for beneficiaries through age 17 and reduces the catastrophic cap for CHAMPVA dependents and survivors (per family) from $7,500 to $3,000 for each calendar year. These regulatory changes implement the statutory provisions.

DATES: *Effective Dates:* This document is effective on January 30, 2002; except for 38 CFR 17.271(b) and 17.272(a)(31)(x) which are effective October 1, 2001, and for 38 CFR 17.274(c) which is effective January 1, 2002.

Comment Date: Written comments must be received by VA on or before April 1, 2002.

ADDRESSES: Mail or hand-deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW, Room 1154, Washington, DC 20420; or fax comments to (202) 273–9289; or e-mail comments to *OGCRegulations@mail.va.gov.* Comments should indicate that they are submitted in response to ''RIN 2900–AK89.'' All comments received will be available for public inspection in the Office of Regulations Management, Room 1158, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: Susan Schmetzer, Chief, Policy & Compliance Division, VA Health Administration Center, P.O. Box 65020, Denver, CO 80206–9020, telephone (303) 331–7552.

SUPPLEMENTARY INFORMATION:

I. Overview of the Rule

CHAMPVA provides health care benefits to the dependents and survivors of veterans rated as 100% permanently and totally disabled from a service-connected condition; to the survivors of veterans who died from a service-connected medical condition; or to survivors of veterans who died in the line of duty and who are not otherwise covered under the TRICARE program.

On October 30, 2000, the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, Public Law 106–398, was enacted. On June 5, 2001, the Veterans' Survivor Benefits Improvements Act of 2001, Public Law 107–14, was enacted. This interim final rule implements these Acts for the CHAMPVA program. 38 U.S.C. 1713 requires CHAMPVA to provide the same or similar benefits as the DoD TRICARE program (formerly known as CHAMPUS).

II. CHAMPVA Eligibility for Individuals 65 Years of Age and Older

Prior to October 1, 2001, CHAMPVA coverage was terminated when a beneficiary became entitled to Part A of Medicare by virtue of becoming age 65. The age limitation for the provision of benefits was the same for TRICARE beneficiaries. Public Laws 106–398 and 107–14 eliminated the age limitation. The following is an explanation of the amended regulations implementing this statutory change.

CHAMPVA beneficiaries age 65 and older prior to June 5, 2001, regain eligibility effective October 1, 2001, for covered inpatient and outpatient benefits, secondary to Medicare and any other health insurance coverage. A beneficiary, who had Parts A and B of Medicare on June 5, 2001, must retain Part B to continue CHAMPVA eligibility. Beneficiaries age 65 on or after June 5, 2001, who are entitled to Medicare Part A must also be enrolled in Part B of Medicare to retain CHAMPVA eligibility effective October 1, 2001.

To be eligible, the individual must be a dependent, spouse or surviving spouse, age 65 or older, of a veteran who is rated 100% permanently and totally disabled from a service-connected condition; died of a service-connected medical condition; or died in active duty. The dependent, spouse or surviving spouse must not otherwise be eligible for benefits under the DoD TRICARE program. Benefits include specified medical services and supplies from authorized civilian sources such as hospitals, other authorized institutional providers, physicians, other authorized professional providers, professional ambulance services, prescription drugs, authorized medical supplies, and rental or purchase of durable medical equipment. Benefits do not include services and supplies for conditions that are expressly excluded from the CHAMPVA benefit by statute or regulation. There may be services that are payable under Medicare that are not payable under CHAMPVA; or conversely there may be benefits that are payable under CHAMPVA that are not payable under Medicare. However, many health care services and supplies are a benefit provided and paid for by both Medicare and CHAMPVA.

For all services and supplies, Medicare supplemental insurance plans or Medicare HMO plans are considered other health insurance and will pay prior to CHAMPVA. Cost sharing, deductible, and annual catastrophic cap requirements are applicable. Beneficiaries will continue to be responsible for payment of their applicable Medicare or CHAMPVA cost-share and deductible. For health care services for which payment may be made under both plans, CHAMPVA will pay up to the CHAMPVA allowable amount for the actual out-of-pocket costs incurred by the beneficiary over the sum paid by Medicare and the total of all amounts paid or payable by third party payers other than Medicare (such as other health insurance).

When a Medicare+Choice enrollee obtains unauthorized out-of-system care that Medicare+Choice will not cover or only partially cover, CHAMPVA will not process the claim as primary. This is because Medicare already paid for the health care the beneficiary needs in the form of a capitation payment to the Medicare+Choice plan. CHAMPVA will not become the primary payer for services that would have been covered by the Medicare+Choice plan had the beneficiary followed applicable requirements.

III. School-Required Physicals

Prior to October 1, 2001, CHAMPVA provided for routine physical examinations under the well-child care provisions for children from birth to age six. Public Law 106–398 extended the provision for school-required physicals for TRICARE dependent children to age 12. This rule extends coverage of school-required physical examinations to CHAMPVA eligible beneficiaries through age 17. We believe the small size of CHAMPVA's population under age 18, and the added potential for financial vulnerability for children of 100% permanently and totally disabled veterans or veterans who died of a service-connected condition, supports expanding this benefit to beneficiaries through age 17. Further, the costs required to support this benefit for all dependent children who are required to undergo a school physical is minimal since there are far fewer dependents in this age group than there are in TRICARE. The school-required physicals are subject to the applicable cost sharing and deductibles for all outpatient services.

IV. Reduction of Catastrophic Cap

Previously, for CHAMPVA, the catastrophic cap was $7,500 per calendar year, per family. Under this rule, the catastrophic cap on payments is reduced to $3,000, per calendar year, per family, for CHAMPVA eligible beneficiaries. The benefit is the same as that provided under Public Law 106–398 for the TRICARE program with the exception of the effective date. TRICARE computes the catastrophic cap based on a fiscal year (October through September of the following year) whereas CHAMPVA computes the catastrophic cap based on a calendar year. For this reason the effective date for CHAMPVA beneficiaries is January 1, 2002.

V. Regulatory Procedures

Administrative Procedure Act

The changes made by this interim final rule in large part reflect statutory changes. Moreover, we have found good cause to dispense with the notice-and-comment and delayed effective date provisions of the Administrative Procedure Act (5 U.S.C. 553). Compliance with such provisions would be impracticable, unnecessary, and contrary to the public interest. A delay in the establishment of the rule would result in significant delays in providing these increased benefits. Also, to avoid significant administrative confusion, it is in the public's interest to provide these benefits within approximately the same period as similar benefits are provided to DoD's TRICARE beneficiaries.

Paperwork Reduction Act

This interim final rule will not impose additional information collection requirements on the public under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3511).

Unfunded Mandates

The Unfunded Mandates Reform Act requires (in section 202) that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more in any given year. This rule would have no consequential effect on State, local, or tribal governments.

Executive Order 12866

This document has been reviewed by the Office of Management and Budget under Executive Order 12866.

Regulatory Flexibility Act

The Secretary hereby certifies that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. It is estimated that there are approximately 89,500 potential beneficiaries over age 65 that will use the benefit of coverage secondary to Medicare, approximately 2,000 beneficiaries impacted by the inclusion of school-required physical examination

benefit; and approximately 2,500 families benefiting from the reduction of the catastrophic cap. They are widely geographically diverse and the health care provided to them would not have a significant impact on any small businesses. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Catalog of Federal Domestic Assistance

There are no Catalog of Federal Domestic Assistance program numbers for the programs affected by this document.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs-health, Grant programs-veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Reporting and recordkeeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

Approved: November 21, 2001.

Anthony J. Principi,

Secretary of Veterans Affairs.

For the reasons set forth in the preamble, 38 CFR part 17 is amended as follows:

PART 17—MEDICAL

1. The authority citation for part 17 continues to read as follows:

Authority: 38 U.S.C. 501, 1721, unless otherwise noted.

2. In § 17.271, paragraphs (a) introductory text and (b) are revised to read as follows:

§ 17.271 Eligibility.

(a) *General Entitlement.* The following persons are eligible for CHAMPVA benefits provided that they are not eligible under Title 10 for the TRICARE Program or Part A of Title XVIII of the Social Security Act (Medicare) except as provided in paragraph (b) of this section.

* * * * *

(b) *CHAMPVA and Medicare entitlement.*

(1) Individuals under age 65 who are entitled to Medicare Part A and enrolled in Medicare Part B, retain CHAMPVA eligibility as secondary payer to Medicare Parts A and B, Medicare supplemental insurance plans, and Medicare HMO plans.

(2) Individuals age 65 or older, and not entitled to Medicare Part A, retain CHAMPVA eligibility.

Note to paragraph (b)(2): If the person is not eligible for Part A of Medicare, a Social Security Administration ''Notice of Disallowance'' certifying that fact must be submitted. Additionally, if the individual is entitled to only Part B of Medicare, but not Part A, or Part A through the Premium HI provisions, a copy of the individual's Medicare card or other official documentation noting this must be provided.

(3) Individuals age 65 on or after June 5, 2001, who are entitled to Medicare Part A and enrolled in Medicare Part B, are eligible for CHAMPVA as secondary payer to Medicare Parts A and B, Medicare supplemental insurance plans, and Medicare HMO plans for services received on or after October 1, 2001.

(4) Individuals age 65 or older prior to June 5, 2001, who are entitled to Medicare Part A and who have not purchased Medicare Part B, are eligible for CHAMPVA as secondary payer to Medicare Part A and any other health insurance for services received on or after October 1, 2001.

(5) Individuals age 65 or older prior to June 5, 2001, who are entitled to Medicare Part A and who have purchased Medicare Part B must continue to carry Part B to retain CHAMPVA eligibility as secondary payer for services received on or after October 1, 2001.

* * * * *

3. In § 17.272, paragraph (a)(31)(x) is added to read as follows:

§ 17.272 Benefit limitations/exclusions.

(a) * * *

(31) * * *

(x) School-required physical examinations for beneficiaries through age 17 that are provided on or after October 1, 2001.

* * * * *

4. Section 17.274 is revised to read as follows:

§ 17.274 Cost sharing.

(a) With the exception of services obtained through VA facilities, CHAMPVA is a cost-sharing program in which the cost of covered services is shared with the beneficiary. CHAMPVA pays the CHAMPVA-determined allowable amount less the deductible, if applicable, and less the beneficiary cost share.

(b) In addition to the beneficiary cost share, an annual (calendar year) outpatient deductible requirement ($50 per beneficiary or $100 per family) must be satisfied prior to the payment of outpatient benefits. There is no deductible requirement for inpatient services or for services provided through VA facilities.

(c) To provide financial protection against the impact of a long-term illness or injury, a calendar year cost limit or ''catastrophic cap'' has been placed on the beneficiary cost-share amount for covered services and supplies. Credits to the annual catastrophic cap are limited to the applied annual deductible(s) and the beneficiary cost-share amount. Costs above the CHAMPVA-allowable amount, as well as costs associated with non-covered services are not credited to the catastrophic cap computation. After a family has paid the maximum cost-share and deductible amounts for a calendar year, CHAMPVA will pay allowable amounts for the remaining covered services through the end of that calendar year.

(i) Through December 31, 2001, the annual cap on cost sharing is $7,500 per CHAMPVA-eligible family.

(ii) Effective January 1, 2001, the cap on cost sharing is $3,000 per CHAMPVA-eligible family.

(d) If the CHAMPVA benefit payment is under $1.00, payment will not be issued. Catastrophic cap and deductible will, however, be credited.

(Authority: 38 U.S.C. 1713**)**

[FR Doc. 02–2206 Filed 1–29–02; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[MD001–1000; FRL–7135–9]

Approval of Section 112(l) Authority for Hazardous Air Pollutants; State of Maryland; Department of the Environment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule and delegation of authority.

SUMMARY: EPA is taking direct final action to approve Maryland Department of the Environment's (MDE's) request for delegation of authority to implement and enforce its hazardous air pollutant regulations for perchloroethylene drycleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning, secondary lead smelting, hazardous waste combustors, and portland cement manufacturing

which have been adopted by reference from the Federal requirements set forth in the Code of Federal Regulations. This approval will automatically delegate future amendments to these regulations once MDE incorporates these amendments into its regulations. In addition, EPA is taking direct final action to approve of MDE's mechanism for receiving delegation of future hazardous air pollutant regulations. This mechanism entails MDE's incorporation by reference of the unchanged Federal standard into its hazardous air pollutant regulation and MDE's notification to EPA of such incorporation. EPA is not waiving its notification and reporting requirements under this approval; therefore, sources will need to send notifications and reports to both MDE and EPA. This action pertains only to affected sources, as defined by the Clean Air Act's (CAA's or the Act's) hazardous air pollutant program, which are not located at major sources, as defined by the Act's operating permit program. The MDE's request for delegation of authority to implement and enforce its hazardous air pollutant regulations at affected sources which are located at major sources, as defined by the Act's operating permit program, was initially approved on November 3, 1999. EPA is taking this action in accordance with the CAA.

DATES: This direct final rule will be effective April 1, 2002 unless EPA receives adverse or critical comments by March 1, 2002. If adverse comment is received, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments on this action should be sent concurrently to: Makeba A. Morris, Chief, Permits and Technical Assessment Branch, Mail Code 3AP11, Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103–2029, and Anne Marie DeBiase, Director, Air and Radiation Management Administration, Maryland Department of the Environment, 2500 Broening Highway, Baltimore, MD 21224. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103 and the Maryland Department of the Environment, 2500 Broening Highway, Baltimore, MD 21224.

FOR FURTHER INFORMATION CONTACT: Dianne J. McNally, U.S. Environmental Protection Agency, Region 3, 1650 Arch Street (3AP11), Philadelphia, PA 19103–2029, *mcnally.dianne@epa.gov* (telephone 215–814–3297). Please note that any formal comments must be submitted, in writing, as provided in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION:

I. Background

Section 112(l) of the Act and 40 Code of Federal Regulations (CFR) part 63 subpart E authorize EPA to approve of State rules and programs to be implemented and enforced in place of certain CAA requirements, including the National Emission Standards for Hazardous Air Pollutants set forth at 40 CFR part 63. EPA promulgated the program approval regulations on November 26, 1993 (58 FR 62262) and subsequently amended these regulations on September 14, 2000 (65 FR 55810). An approvable State program must contain, among other criteria, the following elements:

(a) A demonstration of the state's authority and resources to implement and enforce regulations that are at least as stringent as the NESHAP requirements;

(b) A schedule demonstrating expeditious implementation of the regulation; and

(c) A plan that assures expeditious compliance by all sources subject to the regulation.

On November 3, 1999, MDE received delegation of authority to implement all emission standards promulgated in 40 CFR part 63, as they apply to major sources, as defined by 40 CFR part 70. On June 26, 2000, MDE submitted to EPA a request to receive delegation of authority to implement and enforce the hazardous air pollutant regulations for the remaining affected sources defined in 40 CFR part 63. The MDE supplemented this request with additional information on October 3, 2001 and November 14, 2001. At the present time, this request includes the regulations for perchloroethylene drycleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning, secondary lead smelting, hazardous waste combustors, and portland cement manufacturing which have been adopted by reference from the Federal requirements set forth in 40 CFR part 63, subparts M, N, O, T, X, EEE, and LLL respectively. The MDE also requested that EPA automatically delegate future amendments to these regulations and approve MDE's mechanism for receiving delegation of future hazardous air pollutant regulations which it adopts unchanged from the Federal requirements. This mechanism entails MDE's incorporation by reference of the unchanged Federal standard into its regulation for hazardous air pollutant sources at Title 26, Subtitle 11 of the Maryland Code of Regulations and MDE's notification to EPA of such incorporation.

II. EPA's Analysis of MDE's Submittal

Based on MDE's program approval request and its pertinent laws and regulations, EPA has determined that such an approval is appropriate in that MDE has satisfied the criteria of 40 CFR 63.91. In accordance with 40 CFR 63.91(d)(3)(i), MDE submitted a written finding by the State Attorney General which demonstrates that the State has the necessary legal authority to implement and enforce its regulations, including the enforcement authorities which meet 40 CFR 70.11, the authority to request information from regulated sources and the authority to inspect sources and records to determine compliance status. In accordance with 40 CFR 63.91(d)(3)(ii), MDE submitted copies of its statutes, regulations and requirements that grant authority to MDE to implement and enforce the regulations. In accordance with 40 CFR 63.91(d)(3)(iii)–(v), MDE submitted documentation of adequate resources and a schedule and plan to assure expeditious State implementation and compliance by all sources. Therefore, the MDE program has adequate and effective authorities, resources, and procedures in place for implementation and enforcement of sources subject to the requirements of 40 CFR part 63, subparts M, N, O, T, X, EEE,[1] and LLL, as well as any future emission standards, should MDE seek delegation for these standards. The MDE adopts the emission standards promulgated in 40 CFR part 63 into regulation for hazardous air pollutant sources at Title 26, Subtitle 11 of the Code of Maryland Regulations (COMAR). The MDE has the primary authority and responsibility to carry out all elements of these programs for all sources covered in Maryland, including on-site inspections, record keeping reviews, and enforcement.

III. Terms of Program Approval and Delegation of Authority

In order for MDE to receive automatic delegation of future amendments to the perchloroethylene drycleaning facilities, hard and decorative chromium

[1] Delegation of the National Emission Standard for Hazardous Air Pollutants from Hazardous Waste Combustors (40 CFR part 63 subpart EEE) could be affected by the July 24, 2001 ruling by the United States Court of Appeals for the District of Columbia Circuit which vacated the rule.

electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning, secondary lead smelting, hazardous waste combustors,[2] and portland cement manufacturing regulations, as they apply to facilities that are not located at major sources, as defined by 40 CFR part 70, each amendment must be legally adopted by the State of Maryland. As stated earlier, these amendments are adopted into MDE's regulation for hazardous air pollutant sources at Title 26 COMAR, Subtitle 11. The delegation of amendments to these rules will be finalized on the effective date of the legal adoption. The MDE will notify EPA of its adoption of the Federal regulation amendments.

EPA has also determined that MDE's mechanism for receiving delegation of future hazardous air pollutant regulations which it adopts unchanged from the Federal requirements, as they apply to facilities that are not located at major sources, as defined by 40 CFR part 70, can be approved. This mechanism requires MDE to adopt the Federal regulation into the State's regulation for hazardous air pollutant sources at Title 26 COMAR, Subtitle 11. The delegation will be finalized on the effective date of the legal adoption. The MDE will notify EPA of its adoption of the Federal regulation. The official notice of delegation of additional emission standards will be published in the **Federal Register**. As noted earlier, MDE's program to implement and enforce all emission standards promulgated under 40 CFR part 63, as they apply to major sources, as defined by 40 CFR part 70, was previously approved on November 3, 1999. The notification and reporting provisions in 40 CFR part 63 requiring the owners or operators of affected sources to make submissions to the Administrator shall be met by sending such submissions to MDE and EPA Region III.

If at any time there is a conflict between a MDE regulation and a Federal regulation, the Federal regulation must be applied if it is more stringent than that of MDE. EPA is responsible for determining stringency between conflicting regulations. If MDE does not have the authority to enforce the more stringent Federal regulation, it shall notify EPA Region III in writing as soon as possible, so that this portion of the delegation may be revoked.

If EPA determines that MDE's procedure for enforcing or implementing the 40 CFR part 63 requirements is inadequate, or is not being effectively carried out, this delegation may be revoked in whole or in part in accordance with the procedures set out in 40 CFR 63.96(b).

Certain provisions of 40 CFR part 63 allow only the Administrator of EPA to take further standard setting actions. In addition to the specific authorities retained by the Administrator in 40 CFR 63.90(d) and the ''Delegation of Authorities'' section for specific standards, EPA Region III is retaining the following authorities, in accordance with 40 CFR 63.91(g)(2)(ii):

(1) Approval of alternative non-opacity emission standards, *e.g.,* 40 CFR 63.6(g) and applicable sections of relevant standards;

(2) Approval of alternative opacity standards, *e.g.,* 40 CFR 63.9(h)(9) and applicable sections of relevant standards;

(3) Approval of major alternatives to test methods, as defined in 40 CFR 63.90(a), *e.g.,* 40 CFR 63.7(e)(2)(ii) and (f) and applicable sections of relevant standards;

(4) Approval of major alternatives to monitoring, as defined in 40 CFR 63.90(a), *e.g.,* 40 CFR 63.8(f) and applicable sections of relevant standards; and

(5) Approval of major alternatives to recordkeeping and reporting, as defined in 40 CFR 63.90(a), *e.g.,* 40 CFR 63.10(f) and applicable sections of relevant standards.

The following provisions are included in this delegation, in accordance with 40 CFR 63.91(g)(1)(i), and can only be exercised on a case-by-case basis. When any of these authorities are exercised, MDE must notify EPA Region III in writing:

(1) Applicability determinations for sources during the title V permitting process and as sought by an owner/operator of an affected source through a formal, written request, *e.g.,* 40 CFR 63.1 and applicable sections of relevant standards [3];

(2) Responsibility for determining compliance with operation and maintenance requirements, *e.g.,* 40 CFR 63.6(e) and applicable sections of relevant standards;

(3) Responsibility for determining compliance with non-opacity standards, *e.g.,* 40 CFR 63.6(f) and applicable sections of relevant standards;

(4) Responsibility for determining compliance with opacity and visible emission standards, *e.g.,* 40 CFR 63.6(h) and applicable sections of relevant standards;

(5) Approval of site-specific test plans [4], *e.g.,* 40 CFR 63.7(c)(2)(i) and (d) and applicable sections of relevant standards;

(6) Approval of minor alternatives to test methods, as defined in 40 CFR 63.90(a), *e.g.,* 40 CFR 63.7(e)(2)(i) and applicable sections of relevant standards;

(7) Approval of intermediate alternatives to test methods, as defined in 40 CFR 63.90(a), *e.g.,* 40 CFR 63.7(e)(2)(ii) and (f) and applicable sections of relevant standards;

(8) Approval of shorter sampling times/volumes when necessitated by process variables and other factors, *e.g.,* 40 CFR 63.7(e)(2)(iii) and applicable sections of relevant standards;

(9) Waiver of performance testing, *e.g.,* 40 CFR 63.7 (e)(2)(iv), (h)(2), and (h)(3) and applicable sections of relevant standards;

(10) Approval of site-specific performance evaluation (monitoring) plans [5], *e.g.,* 40 CFR 63.8(c)(1) and (e)(1) and applicable sections of relevant standards;

(11) Approval of minor alternatives to monitoring methods, as defined in 40 CFR 63.90(a), *e.g.,* 40 CFR 63.8(f) and applicable sections of relevant standards;

(12) Approval of intermediate alternatives to monitoring methods, as defined in 40 CFR 63.90(a), *e.g.,* 40 CFR 63.8(f) and applicable sections of relevant standards;

(13) Approval of adjustments to time periods for submitting reports, *e.g.,* 40 CFR 63.9 and 63.10 and applicable sections of relevant standards; and

(14) Approval of minor alternatives to recordkeeping and reporting, as defined in 40 CFR 63.90(a), *e.g.,* 40 CFR 63.10(f) and applicable sections of relevant standards.

[2] See Footnote 1.

[3] Applicability determinations are considered to be nationally significant when they:

(i) Are usually complex or controversial;

(ii) Have bearing on more than one state or are multi-Regional;

(iii) Appear to create a conflict with previous policy or determinations;

(iv) Are a legal issue which has not been previously considered; or

(v) Raise new policy questions and shall be forwarded to EPA Region III prior to finalization.

Detailed information on the applicability determination process may be found in EPA document 305–B–99–004 *How to Review and Issue Clean Air Act Applicability Determinations and Alternative Monitoring,* dated February 1999. The MDE may also refer to the Compendium of Applicability Determinations issued by the EPA and may contact EPA Region III for guidance.

[4] The MDE will notify EPA of these approvals on a quarterly basis by submitting a copy of the test plan approval letter. Any plans which propose major alternative test methods or major alternative monitoring methods shall be referred to EPA for approval.

[5] The MDE will notify EPA of these approvals on a quarterly basis by submitting a copy of the performance evaluation plan approval letter. Any plans which propose major alternative test methods or major alternative monitoring methods shall be referred to EPA for approval.

As required, MDE and EPA Region III will provide the necessary written, verbal and/or electronic notification to ensure that each agency is fully informed regarding the interpretation of applicable regulations in 40 CFR part 63. In instances where there is a conflict between a MDE interpretation and a Federal interpretation of applicable regulations in 40 CFR part 63, the Federal interpretation must be applied if it is more stringent than that of MDE.

Written, verbal and/or electronic notification will also be used to ensure that each agency is informed of the compliance status of affected sources in Maryland. The MDE will comply with all of the requirements of 40 CFR 63.91(g)(1)(ii). Quarterly reports will be submitted to EPA by MDE to identify sources determined to be applicable during that quarter.

Although MDE has primary authority and responsibility to implement and enforce the hazardous air pollutant general provisions and hazardous air pollutant emission standards for perchloroethylene drycleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning, secondary lead smelting, hazardous waste combustors,[6] and portland cement manufacturing, nothing shall preclude, limit, or interfere with the authority of EPA to exercise its enforcement, investigatory, and information gathering authorities concerning this part of the Act.

IV. Final Action

EPA is approving MDE's request for delegation of authority to implement and enforce its hazardous air pollutant regulations for perchloroethylene drycleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning secondary lead smelting, hazardous waste combustors,[7] and portland cement manufacturing which have been adopted by reference from 40 CFR part 63, subparts M, N, O, T, X, EEE, and LLL, respectively. This approval will automatically delegate future amendments to these regulations. In addition, EPA is approving of MDE's mechanism for receiving delegation of future hazardous air pollutant regulations which it adopts unchanged from the Federal requirements. This mechanism entails legal adoption by the State of Maryland of the amendments or rules into the State's regulation for hazardous air pollutant sources at Title 26 COMAR, Subtitle 11 and notification to EPA of such adoption. This action pertains only to affected sources, as defined by 40 CFR part 63, which are not located at major sources, as defined by 40 CFR part 70. The delegation of authority shall be administered in accordance with the terms outlined in section IV., above. This delegation of authority is codified in 40 CFR 63.99. In addition, MDE's delegation of authority to implement and enforce 40 CFR part 63 emission standards at major sources, as defined by 40 CFR part 70, approved by EPA Region III on November 3, 1999, is codified in 40 CFR 63.99.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial rule and anticipates no adverse comment because MDE's request for delegation of the hazardous air pollutant regulations pertaining to perchloroethylene drycleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning, secondary lead smelting, hazardous waste combustors,[8] and portland cement manufacturing and its request for automatic delegation of future amendments to these rules and future standards, when specifically identified, does not alter the stringency of these regulations and is in accordance with all program approval regulations. However, in the ''Proposed Rules'' section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve of MDE's request for delegation if adverse comments are filed. This rule will be effective on April 1, 2002 without further notice unless EPA receives adverse comment by March 1, 2002. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

V. Administrative Requirements

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use''(66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not substantially direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant. In reviewing requests for rule approval under CAA section 112, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS),

[6] See Footnote 1.

[7] See Footnote 1.

[8] See Footnote 1.

EPA has no authority to disapprove requests for rule approval under CAA section 112 for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a request for rule approval under CAA section 112, to use VCS in place of a request for rule approval under CAA section 112 that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 1, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action, pertaining to the approval of MDE's delegation of authority for the hazardous air pollutant emission standards for perchloroethylene dry cleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilizers, halogenated solvent cleaning, secondary lead smelting, hazardous waste combustors, and portland cement manufacturing (CAA section 112), may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects 40 CFR part 63

Administrative practice and procedure, Air pollution control , Hazardous substances, Intergovernmental relations.

Dated: January 22, 2002.

Judith M. Katz,

Director, Air Protection Division, Region III.

40 CFR part 63 is amended as follows:

PART 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401, et. seq.

Subpart E—Approval of State Programs and Delegation of Federal Authorities

2. Section 63.99 is amended by adding paragraph (a)(20) to read as follows:

§ 63.99 Delegated Federal authorities.

(a) * * *

(20) Maryland.

(i) Maryland is delegated the authority to implement and enforce all existing and future unchanged 40 CFR part 63 standards at major sources, as defined in 40 CFR part 70, in accordance with the delegation agreement between EPA Region III and the Maryland Department of the Environment, dated November 3, 1999, and any mutually acceptable amendments to that agreement.

(ii) Maryland is delegated the authority to implement and enforce all existing 40 CFR part 63 standards and all future unchanged 40 CFR part 63 standards, if delegation is sought by the Maryland Department of the Environment and approved by EPA Region III, at affected sources which are not located at major sources, as defined in 40 CFR part 70, in accordance with the final rule, dated January 30, 2002, effective April 1, 2002, and any mutually acceptable amendments to the terms described in the direct final rule.

[FR Doc. 02–2230 Filed 1–29–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[PA001–1002; FRL–7135–3]

Approval of Section 112(l) Authority for Hazardous Air Pollutants and the Chemical Accident Prevention Provisions; Allegheny County; Health Department

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule and delegation of authority.

SUMMARY: EPA is taking direct final action to approve Allegheny County Health Department's (ACHD's) request for delegation of authority to implement and enforce its hazardous air pollutant regulations which have been adopted by reference from the Federal requirements set forth in the Code of Federal Regulations. This approval will automatically delegate future amendments to these regulations. For sources which are required to obtain a Clean Air Act operating permit, this delegation addresses all existing hazardous pollutant regulations. For sources which are not required to obtain a Clean Air Act operating permit, this delegation presently addresses the hazardous air pollutant regulations for perchloroethylene drycleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning, secondary lead smelting, hazardous waste combustors, portland cement manufacturing, and secondary aluminum smelting. This delegation addresses all sources subject to the accidental release prevention regulations. In addition, EPA is taking direct final action to automatically delegate all future hazardous air pollutant regulations which ACHD adopts unchanged from the Federal requirements. EPA is not waiving its notification and reporting requirements under this approval; therefore, sources will need to send notifications and reports to both ACHD and EPA. This action pertains to affected sources, as defined by the Clean Air Act's (CAA's or the Act's) hazardous air pollutant program, as well as covered processes, as defined by the Act's chemical accident prevention provisions. EPA is taking this action in accordance with the CAA.

DATES: This direct final rule will be effective April 1, 2002 unless EPA receives adverse or critical comments by March 1, 2002. If adverse comment is received, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments on this action should be sent concurrently to: Makeba A. Morris, Chief, Permits and Technical Assessment Branch, Mail Code 3AP11, Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103–2029, and Roger C. Westman, Manager, Air Quality

Program, Allegheny County Health Department, 301 39th Street, Pittsburgh, PA 15201–8103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103 and Allegheny County Health Department, 301 39th Street, Pittsburgh, PA 15201–8103.

FOR FURTHER INFORMATION CONTACT: Dianne J. McNally, U.S. Environmental Protection Agency, Region 3, 1650 Arch Street (3AP11), Philadelphia, PA 19103–2029, *mcnally.dianne@epa.gov* (telephone 215–814–3297). Please note that any formal comments must be submitted, in writing, as provided in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION:

I. Background

Section 112(l) of the Act and 40 Code of Federal Regulations (CFR) part 63 subpart E authorize EPA to approve of State rules and programs to be implemented and enforced in place of certain CAA requirements, including the National Emission Standards for Hazardous Air Pollutants set forth at 40 CFR part 63 and the chemical accident prevention provisions set forth at 40 CFR part 68. EPA promulgated the program approval regulations on November 26, 1993 (58 FR 62262) and subsequently amended these regulations on September 14, 2000 (65 FR 55810). An approvable State program must contain, among other criteria, the following elements:

(a) a demonstration of the State's authority and resources to implement and enforce regulations that are at least as stringent as the 40 CFR part 63 National Emission Standards for Hazardous Air Pollutant (NESHAP) requirements and the 40 CFR part 68 chemical accident prevention provisions, including an auditing strategy at least as stringent as the EPA regulation;

(b) a schedule demonstrating expeditious implementation of the regulations;

(c) a plan that assures expeditious compliance by all sources subject to the regulations;

(d) a requirement that subject sources submit a risk management plan (RMP);

(d) procedures for reviewing RMPs; and,

(e) procedures to provide technical assistance to subject sources, including small businesses, under the chemical accident prevention provisions.

On March 30, 1998 and October 30, 1998, ACHD, through letters from the Pennsylvania Department of Environmental Protection (PADEP), submitted to EPA requests to receive delegation of authority to implement and enforce the hazardous air pollutant regulations which have been adopted by reference from 40 CFR part 63 and the chemical accident prevention regulations which have been adopted by reference from 40 CFR part 68. On August 4, 1999, PADEP submitted a copy of an Agreement for Implementation of the Title V Operating Permits Program between EPA, PADEP and ACHD. On June 15, 2001, ACHD submitted a letter to EPA clarifying its request for delegation of authority of the NESHAPs and the chemical accident prevention provisions. In this letter, ACHD stated that it was seeking delegation of authority of the NESHAPs, as they applied to sources subject to the Title V program and to sources which have taken a federally-enforceable limit on their potential to emit to below the major source thresholds, as defined in 40 CFR part 70. The ACHD also clarified that it was seeking automatic delegation of future NESHAPs for these sources. This letter also reiterated that ACHD was seeking delegation of the chemical accident prevention regulations for all sources. These four submissions provided detailed information on ACHD's legal and enforcement authority, resources, and implementation procedures for addressing the hazardous air pollutant regulations at facilities required to obtain an operating permit under 40 CFR part 70 and the chemical accident prevention regulations at all facilities. On October 24, 2001, ACHD submitted to EPA additional information necessary to receive delegation of authority to implement and enforce the hazardous air pollutant regulations for perchloroethylene drycleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning and secondary lead smelting which have been adopted by reference from 40 CFR part 63, subparts M, N, O, T and X, respectively, at sources not addressed in ACHD's previous requests. In this October 24, 2001 request, ACHD also asked that EPA automatically delegate future amendments to these specific regulations and future hazardous air pollutant regulations adopted unchanged from the Federal requirements which were not addressed by ACHD's previous requests. Because ACHD automatically adopts by reference the regulations in 40 CFR part 63, the recently promulgated regulations addressing hazardous waste combustors, portland cement manufacturing, and secondary aluminum smelting (40 CFR part 63 subparts EEE, LLL, and RRR, respectively), while not specifically mentioned in thisOctober 24, 2001 letter, are also part of the delegation request.

II. EPA's Analysis of ACHD's Submittal

Based on ACHD's program approval request and its pertinent laws and regulations, EPA has determined that such an approval is appropriate in that ACHD has satisfied the criteria of 40 CFR 63.91 and 63.95. In accordance with 40 CFR 63.91(d)(3)(i), ACHD submitted two written findings by the County Solicitor which demonstrate that ACHD has the necessary legal authority to implement and enforce its regulations, including the enforcement authorities which meet 40 CFR 70.11, the authority to request information from regulated sources and the authority to inspect sources and records to determine compliance status. In accordance with 40 CFR 63.91(d)(3)(ii), ACHD submitted copies of its statutes, regulations and requirements that grant authority to ACHD to implement and enforce the regulations. In accordance with 40 CFR 63.91(d)(3(iii)–(v), ACHD submitted documentation of adequate resources and a schedule and plan to assure expeditious implementation and compliance by all sources. Therefore, the ACHD program has adequate and effective authorities, resources, and procedures in place for implementation and enforcement of the emission standards of 40 CFR part 63, including 40 CFR part 63, subparts M, N, O, T, X, EEE [1], LLL and RRR, and the chemical accident prevention provisions of 40 CFR part 68, at all covered facilities. In addition, the ACHD program has adequate and effective authorities, resources and procedures in place for implementation and enforcement of any future emission standards.

In accordance with 40 CFR 63.95(b)(1), ACHD submitted information which demonstrates that it has the authority and resources to implement and enforce regulations that are no less stringent than the regulations in 40 CFR part 68, subparts A through G and 68.200 and a requirement that subject sources submit a RMP that reports at least the same information in the same format as required under 40 CFR part 68, subpart G. As required by

[1] Delegation of the National Emission Standard for Hazardous Air Pollutants from Hazardous Waste Combustors (40 CFR part 63 subpart EEE) could be affected by the July 24, 2001 ruling by the United States Court of Appeals for the District of Columbia Circuit which vacated the rule.

40 CFR 63.95(b)(3)–(4), ACHD submitted documentation that it has adequate procedures for reviewing RMPs, providing technical assistance to stationary sources, including small businesses, and auditing RMPs in a manner consistent with the Federal regulation.

The ACHD automatically adopts the emission standards promulgated in 40 CFR part 63 and the chemical accident prevention provisions promulgated in 40 CFR part 68 into the County of Allegheny, Pennsylvania, Ordinance No. 16782 and Allegheny County Health Department Rules and Regulations, Article XXI Air Pollution Control 2104.08. The ACHD has the primary authority and responsibility to carry out all elements of these programs for all sources covered in Allegheny County, including on-site inspections, record-keeping reviews, and enforcement.

III. Terms of Program Approval and Delegation of Authority

In order for ACHD to receive automatic delegation of future amendments to the hazardous air pollutant regulations [2] and the chemical accident prevention provisions, each amendment must be legally adopted by Allegheny County. As stated earlier, these amendments are automatically adopted into the County of Allegheny, Pennsylvania, Ordinance No. 16782 and ACHD Rules and Regulations, Article XXI Air Pollution Control 2104.08. The delegation of amendments to these rules will be finalized on the effective date of the legal adoption.

EPA has also determined that ACHD can be delegated the authority to implement and enforce all future hazardous air pollutant regulations, which it adopts unchanged from the Federal requirements. The delegation of future hazardous air pollutant regulations will be finalized on the effective date of the legal adoption. The official notice of delegation of additional emission standards will be published in the **Federal Register**. The notification and reporting provisions in 40 CFR part 63 requiring the owners or operators of affected sources to make submissions to the Administrator shall be met by sending such submissions to ACHD and EPA Region III.

If at any time there is a conflict between an ACHD regulation and a Federal regulation, the Federal regulation must be applied if it is more stringent than that of ACHD. EPA is responsible for determining stringency between conflicting regulations. If ACHD does not have the authority to enforce the more stringent Federal regulation, it shall notify EPA Region III in writing as soon as possible, so that this portion of the delegation may be revoked.

If EPA determines that ACHD's procedures for enforcing or implementing the 40 CFR part 63 or 40 CFR part 68 requirements are inadequate, or are not being effectively carried out, this delegation may be revoked in whole or in part in accordance with the procedures set out in 40 CFR 63.96(b).

Certain provisions of 40 CFR part 63 and 40 CFR part 68 allow only the Administrator of EPA to take further standard setting actions. In addition to the specific authorities retained by the Administrator in 40 CFR 63.90(d) and 40 CFR 68.120 and the ''Delegation of Authorities'' section for specific standards, EPA Region III is retaining the following authorities, in accordance with 40 CFR 63.91(g)(2)(ii):

(1) approval of alternative non-opacity emission standards, e.g., 40 CFR 63.6(g) and applicable sections of relevant standards;

(2) approval of alternative opacity standards, e.g., 40 CFR 63.9(h)(9) and applicable sections of relevant standards;

(3) approval of major alternatives to test methods, as defined in 40 CFR 63.90(a), e.g., 40 CFR 63.7(e)(2)(ii) and (f) and applicable sections of relevant standards;

(4) approval of major alternatives to monitoring, as defined in 40 CFR 63.90(a), e.g., 40 CFR 63.8(f) and applicable sections of relevant standards; and

(5) approval of major alternatives to recordkeeping and reporting, as defined in 40 CFR 63.90(a), e.g., 40 CFR 63.10(f) and applicable sections of relevant standards.

The following provisions are included in this delegation, in accordance with 40 CFR 63.91(g)(1)(i), and can only be exercised on a case-by-case basis. When any of these authorities are exercised, ACHD must notify EPA Region III in writing:

(1) applicability determinations for sources during the title V permitting process and as sought by an owner/operator of an affected source through a formal, written request, e.g., 40 CFR 63.1 and applicable sections of relevant standards;[3]

(2) responsibility for determining compliance with operation and maintenance requirements, e.g., 40 CFR 63.6(e) and applicable sections of relevant standards;

(3) responsibility for determining compliance with non-opacity standards, e.g., 40 CFR 63.6(f) and applicable sections of relevant standards;

(4) responsibility for determining compliance with opacity and visible emission standards, e.g., 40 CFR 63.6(h) and applicable sections of relevant standards;

(5) approval of site-specific test plans,[4] e.g., 40 CFR 63.7(c)(2)(i) and (d) and applicable sections of relevant standards;

(6) approval of minor alternatives to test methods, as defined in 40 CFR 63.90(a), e.g., 40 CFR 63.7(e)(2)(i) and applicable sections of relevant standards;

(7) approval of intermediate alternatives to test methods, as defined in 40 CFR 63.90(a), e.g., 40 CFR 63.7(e)(2)(ii) and (f) and applicable sections of relevant standards;

(8) approval of shorter sampling times/volumes when necessitated by process variables and other factors, e.g., 40 CFR 63.7(e)(2)(iii) and applicable sections of relevant standards;

(9) waiver of performance testing, e.g., 40 CFR 63.7 (e)(2)(iv), (h)(2), and (h)(3) and applicable sections of relevant standards;

(10) approval of site-specific performance evaluation (monitoring) plans,[5] e.g., 40 CFR 63.8(c)(1) and (e)(1) and applicable sections of relevant standards;

(11) approval of minor alternatives to monitoring methods, as defined in 40 CFR 63.90(a), e.g., 40 CFR 63.8(f) and applicable sections of relevant standards;

(12) approval of intermediate alternatives to monitoring methods, as

[2] See Footnote 1.

[3] Applicability determinations are considered to be nationally significant when they:

(i) are unusually complex or controversial;

(ii) have bearing on more than one state or are multi-Regional;

(iii) appear to create a conflict with previous policy or determinations;

(iv) are a legal issue which has not been previously considered; or

(v) raise new policy questions and shall be forwarded to EPA Region III prior to finalization.

Detailed information on the applicability determination process may be found in EPA document 305–B–99–004 *How to Review and Issue Clean Air Act Applicability Determinations and Alternative Monitoring, dated February 1999. The ACHD may also refer to the Compendium of Applicability Determinations* issued by the EPA and may contact EPA Region III for guidance.

[4] The ACHD will notify EPA of these approvals on a quarterly basis by submitting a copy of the test plan approval letter. Any plans which propose major alternative test methods or major alternative monitoring methods shall be referred to EPA for approval.

[5] The ACHD will notify EPA of these approvals on a quarterly basis by submitting a copy of the performance evaluation plan approval letter. Any plans which propose major alternative test methods or major alternative monitoring methods shall be referred to EPA for approval.

defined in 40 CFR 63.90(a), e.g., 40 CFR 63.8(f) and applicable sections of relevant standards;

(13) approval of adjustments to time periods for submitting reports, e.g., 40 CFR 63.9 and 63.10 and applicable sections of relevant standards; and

(14) approval of minor alternatives to recordkeeping and reporting, as defined in 40 CFR 63.90(a), e.g., 40 CFR 63.10(f) and applicable sections of relevant standards.

As required, ACHD and EPA Region III will provide the necessary written, verbal and/or electronic notification to ensure that each agency is fully informed regarding the interpretation of applicable regulations in 40 CFR part 63 and 40 CFR part 68. In instances where there is a conflict between a ACHD interpretation and a Federal interpretation of applicable regulations in 40 CFR part 63 and 40 CFR part 68, the Federal interpretation must be applied if it is more stringent than that of ACHD. Written, verbal and/or electronic notification will also be used to ensure that each agency is informed of the compliance status of affected sources in Allegheny County. The ACHD will comply with all of the requirements of 40 CFR 63.91(g)(1)(ii). Quarterly reports will be submitted to EPA by ACHD to identify sources determined to be applicable during that quarter. Although ACHD has primary authority and responsibility to implement and enforce the hazardous air pollutant regulations [6] and the chemical accident prevention provisions, nothing shall preclude, limit, or interfere with the authority of EPA to exercise its enforcement, investigatory, and information gathering authorities concerning this part of the Act.

IV. Final Action

EPA is approving ACHD's request for delegation of authority to implement and enforce its hazardous air pollutant emission standards [7] which have been adopted by reference from the Federal requirements set forth in 40 CFR part 63 and its chemical accident prevention provisions which have been adopted by reference from the Federal requirements set forth in 40 CFR part 68. This approval will automatically delegate future amendments to these regulations. For sources which are required to obtain an operating permit under 40 CFR part 70, this delegation addresses all existing hazardous air pollutant emission standards as adopted by reference from 40 CFR part 63. For sources which are not required to obtain an operating permit under 40 CFR part 70, this delegation presently addresses hazardous air pollutant regulations for perchloroethylene drycleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning, secondary lead smelting, hazardous waste combustors,[8] portland cement manufacturing, and secondary aluminum smelting as adopted by reference from 40 CFR part 63, subparts M, N, O, T, X, EEE, LLL and RRR, respectively. This delegation addresses all sources subject to the accidental release prevention regulations. In addition, EPA is taking direct final action to automatically delegate all future hazardous air pollutant regulations which ACHD adopts unchanged from the Federal requirements. The delegation of authority shall be administered in accordance with the terms outlined in section IV., above. This delegation of authority is codified in 40 CFR 63.99.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial rule and anticipates no adverse comment because ACHD's request for delegation of the hazardous air pollutant regulations and its request for automatic delegation of future amendments to these rules and future standards does not alter the stringency of these regulations and is in accordance with all program approval regulations. However, in the ''Proposed Rules'' section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve of ACHD's request for delegation if adverse comments are filed. This rule will be effective on April 1, 2002 without further notice unless EPA receives adverse comment by March 1, 2002. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

V. Administrative Requirements

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant. In reviewing requests for rule approval under CAA section 112, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove requests for rule approval under CAA section 112 for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a request for rule approval under CAA

[6] See Footnote 1.

[7] See Footnote 1.

[8] See Footnote 1.

section 112, to use VCS in place of a request for rule approval under CAA section 112 that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 1, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action, pertaining to the approval of ACHD's delegation of authority for the hazardous air pollutant emission standards and the chemical accident prevention provisions (CAA section 112), may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects 40 CFR Part 63

Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations.

Dated: January 22, 2002.

Judith M. Katz,

Director, Air Protection Division, Region III.

40 CFR part 63 is amended as follows:

PART 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

Subpart E—Approval of State Programs and Delegation of Federal Authorities

2. Section 63.99 is amended by adding paragraphs (a)(38)(iv) and (v):

§ 63.99 Delegated Federal authorities.

(a) * * *

(38) * * *

(iv) Allegheny County is delegated the authority to implement and enforce all existing 40 CFR part 63 standards and all future unchanged 40 CFR part 63 standards at sources within Allegheny County, in accordance with the final rule, dated January 30, 2002, effective April 1, 2002, and any mutually acceptable amendments to the terms described in the direct final rule.

(v) Allegheny County is delegated the authority to implement and enforce the provisions of 40 CFR part 68 and all future unchanged amendments to 40 CFR part 68 at sources within Allegheny County, in accordance with the final rule, dated January 30, 2002, effective April 1, 2002, and any mutually acceptable amendments to the terms described in the direct final rule.

[FR Doc. 02–2228 Filed 1–29–02; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Parts 2, 4, 7, 10, 13, and 35

RIN 1090–AA80

Change of Address for Office of Hearings and Appeals

AGENCY: Office of the Secretary, Interior.

ACTION: Final rule.

SUMMARY: The Department of the Interior is revising its regulations governing administrative appeals to reflect a change of address for the Office of Hearings and Appeals (OHA). OHA is moving to a new building in Arlington, Virginia, effective February 11, 2002.

DATES: This rule is effective February 11, 2002.

FOR FURTHER INFORMATION CONTACT: Charles E. Breece, Principal Deputy Director, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, Virginia 22203, telephone 703–235–3810. After February 11, 2002, Mr. Breece's address will change to Office of Hearings and Appeals, 801 North Quincy Street, Arlington, Virginia 22203. The phone number will remain the same.

SUPPLEMENTARY INFORMATION:

I. Background
II. Procedural Requirements

I. Background

The Department of the Interior's Office of Hearings and Appeals (OHA) conducts hearings and renders decisions in a wide variety of administrative appeals from actions taken by the bureaus and offices of the Department. OHA consists of a headquarters office, located in Arlington, Virginia, and nine field offices located throughout the country. The headquarters office contains the Office of the Director, the Interior Board of Contract Appeals, the Interior Board of Indian Appeals, the Interior Board of Land Appeals, the headquarters component of the Hearings Division, and a Division of Administration. Since 1970, the headquarters office has been located at 4015 Wilson Boulevard, and that address is included in numerous provisions of the Code of Federal Regulations relating to administrative appeals within the Department.

Effective February 11, 2002, the OHA headquarters office is being relocated to 801 North Quincy Street, Arlington, Virginia. In anticipation of that move, the Department is revising its administrative appeals regulations to reflect OHA's new street address.

II. Procedural Requirements

A. Determination To Issue Final Rule Effective in Less than 30 Days

The Department has determined that the public notice and comment provisions of the Administrative Procedure Act, 5 U.S.C. 553(b), do not apply to this rulemaking because the changes being made relate solely to matters of agency organization, procedure, and practice. They therefore satisfy the exemption from notice and comment rulemaking in 5 U.S.C. 553(b)(A).

Moreover, the Department has determined that there is good cause to waive the requirement of publication 30 days in advance of the rule's effective date under 5 U.S.C. 553(d). Since the timing of OHA's relocation is dictated by the construction schedule for the building to which OHA is moving, the actual move date was confirmed only in the past few weeks. If the changes in this rule were to become effective 30 days after publication, it could cause delays in processing appeals. A February 11, 2002, effective date means that appeals will go directly to the new address and thus will be processed more quickly. Because a February 11 effective date benefits the public, there is good cause for making this rule effective in less than 30 days, as permitted by 5 U.S.C. 553(d)(3).

B. Review Under Procedural Statutes and Executive Orders

The Department has reviewed this rule under the following statutes and executive orders governing rulemaking procedures: the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1501 *et seq.*; the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*; the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 801 *et seq.*; the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*; the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*; Executive Order 12630 (Takings); Executive Order 12866 (Regulatory Planning and Review); Executive Order 12988 (Civil Justice Reform); Executive Order 13132 (Federalism); Executive Order 13175 (Tribal Consultation); and Executive Order 13211 (Energy Impacts). The Department has determined that this rule does not trigger any of the procedural requirements of those statutes and executive orders, since this rule merely changes the street address for OHA's headquarters office.

Dated: January 18, 2002.

P. Lynn Scarlett,

Assistant Secretary—Policy, Management and Budget.

For the reasons stated in the preamble, the Department of the Interior amends its regulations in 43 CFR parts 2, 4, 7, 10, 13, and 35 as follows:

43 CFR PART 2—[AMENDED]

1. The authority citation for part 2 continues to read as follows:

Authority: 5 U.S.C. 301, 552 and 552a; 31 U.S.C. 9701; and 43 U.S.C. 1460.

§ 2.2 [Amended]

2. In § 2.2, revise all references to ''Ballston Building No. 3, 4015 Wilson Boulevard'' to read ''801 North Quincy Street''.

§ 2.14 [Amended]

3. In § 2.14(a)(2)(i), revise ''4015 Wilson Boulevard'' to read ''801 North Quincy Street''.

Appendix B to Part 2 [Amended]

4. In Appendix B, paragraph 1, revise ''4015 Wilson Boulevard'' to read ''801 North Quincy Street''.

43 CFR PART 4—[AMENDED]

5. The authority citation for part 4 continues to read as follows:

Authority: R.S. 2478, as amended, 43 U.S.C. 1201, unless otherwise noted.

Subpart C—[Amended]

6. The authority citation for part 4, subpart C continues to read as follows:

Authority: 5 U.S.C. 301 and the Contract Disputes Act of 1978 (Pub. L. 95–563, Nov. 1, 1978 (41 U.S.C. 601–613)).

7. In part 4, subpart C, revise all references to ''4015 Wilson Boulevard'' to read ''801 North Quincy Street''.

Subpart D—[Amended]

8. The authority citation for part 4, subpart D continues to read as follows:

Authority: Secs. 1, 2, 36 Stat. 855, as amended, 856, as amended, sec. 1, 38 Stat. 586, 42 Stat. 1185, as amended, secs. 1, 2, 56 Stat. 1021, 1022; R.S. 463, 465; 5 U.S.C. 301; 25 U.S.C. secs. 2, 9, 372, 373, 374, 373a, 373b, 410; 100 Stat. 61, as amended by 101 Stat. 886 and 101 Stat. 1433, 25 U.S.C. 331 note.

9. In part 4, subpart D, revise all references to ''4015 Wilson Boulevard'' to read ''801 North Quincy Street''.

Subpart E—[Amended]

10. The authority citation for part 4, subpart E continues to read as follows:

Authority: Sections 4.470 to 4.478 also issued under authority of sec. 2, 48 Stat. 1270; 43 U.S.C. 315a.

11. In part 4, subpart E, revise all references to ''4015 Wilson Boulevard'' to read ''801 North Quincy Street''.

Subpart J—[Amended]

12. The authority citation for part 4, subpart J continues to read as follows:

Authority: 5 U.S.C. 301 *et seq.*; 25 U.S.C. 396 *et seq.*, 396a *et seq.*, 2101 *et seq.*; 30 U.S.C. 181 *et seq.*, 351 *et seq.*, 1001 *et seq.*, 1701 *et seq.*; 31 U.S.C 9701; 43 U.S.C. 1301 *et seq.*, 1331 *et seq.*, and 1801 *et seq.*

13. In § 4.909(b)(1), revise ''4015 Wilson Boulevard'' to read ''801 North Quincy Street''.

Subpart L—[Amended]

14. The authority citation for part 4, subpart L continues to read as follows:

Authority: 30 U.S.C. 1256, 1260, 1261, 1264, 1268, 1271, 1272, 1275, 1293; 5 U.S.C. 301.

15. In part 4, subpart L, revise all references to ''4015 Wilson Boulevard'' to read ''801 North Quincy Street''.

Subpart M—[Amended]

16. The authority citation for part 4, subpart M continues to read as follows:

Authority: 5 U.S.C. 301

§ 4.1604 [Amended]

17. In § 4.1604, revise ''room 1111, Ballston Towers Building No. 3, 4015 Wilson Boulevard'' to read ''801 North Quincy Street''.

PART 7—[AMENDED]

18. The authority citation for part 7 continues to read as follows:

Authority: Pub. L. 96–95, 93 Stat. 721, as amended; 102 Stat. 2983 (16 U.S.C. 470aa–mm) (Sec. 10(a). Related authority: Pub. L. 59–209, 34 Stat. 225 (16 U.S.C. 432, 433); Pub. L. 86–523; 74 Stat. 220, 221 (16 U.S.C. 469), as amended; 88 Stat. 174 (1974); Pub. L. 89–665, 80 Stat. 915 (16 U.S.C. 470a–t), as amended, 84 Stat. 204 (1970), 87 Stat. 139 (1973), 90 Stat. 1320 (1976), 92 Stat. 3467 (1978), 94 Stat. 2987 (1980); Pub. L. 95–341, 92 Stat. 469 (42 U.S.C. 1996).

§ 7.37 [Amended]

19. In § 7.37, revise all references to ''4015 Wilson Boulevard'' to read ''801 North Quincy Street''.

PART 10—[AMENDED]

20. The authority citation for part 10 continues to read as follows:

Authority: 25 U.S.C. 3001 *et seq.*

§ 10.12 [Amended]

21. In § 10.12, revise all references to ''4015 Wilson Boulevard'' to read ''801 North Quincy Street''.

PART 13—[AMENDED]

22. The authority citation for part 13 continues to read as follows:

Authority: Sec. 4, 68 Stat. 663; 20 U.S.C. 107.

§ 13.6 [Amended]

23. In § 13.6, revise ''4015 Wilson Boulevard'' to read ''801 North Quincy Street''.

PART 35—[AMENDED]

24. The authority citation for part 35 continues to read as follows:

Authority: 5 U.S.C. 301; 31 U.S.C. 3801–3812.

§ 35.1 [Amended]

25. In § 35.1(g), revise ''4015 Wilson Boulevard'' to read ''801 North Quincy Street''.

[FR Doc. 02–2188 Filed 1–29–02; 8:45 am]

BILLING CODE 4310–RK–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 010710171-2013-02; I.D. 051401B]

RIN 0648-AL41

Fisheries Off West Coast States and in the Western Pacific; Pelagic Fisheries; Prohibition on Fishing for Pelagic Management Unit Species; Nearshore Area Closures Around American Samoa by Vessels More Than 50 Feet in Length

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to prohibit certain vessels from fishing for Pacific pelagic management unit species (PMUS) within nearshore areas seaward of 3 nautical miles (nm) to approximately 50 nm around the islands of American Samoa. This prohibition applies to vessels that measure more than 50 ft (15.2 m) in length overall and that did not land pelagic management unit species in American Samoa under a Federal longline general permit prior to November 13, 1997. This action is intended to prevent the potential for gear conflicts and catch competition between large fishing vessels and locally based small fishing vessels. Such conflicts and competition could lead to reduced opportunities for sustained participation by residents of American Samoa in the small-scale pelagic fishery.

DATES: Effective March 1, 2002.

ADDRESSES: Copies of the Final Environmental Impact Statement for the Fishery Management Plan for the Pelagic Fisheries of the Western Pacific Region (FEIS) may be obtained from Dr. Charles Karnella, Administrator, NMFS, Pacific Islands Area Office (PIAO), 1601 Kapiolani Blvd., Suite 1110, Honolulu, HI 96814. Copies of the regulatory impact review/final regulatory flexibility analysis (RIR/FRFA) prepared for this final rule may be obtained from Ms. Kitty Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, Suite 1400, Honolulu, HI 96813.

FOR FURTHER INFORMATION CONTACT: Alvin Katekaru, PIAO, at 808-973-2937.

SUPPLEMENTARY INFORMATION: A proposed rule was published in the **Federal Register** on July 31, 2001 (66 FR 39475). As discussed in the proposed rule, small vessel fishermen have raised concerns over the potential for gear conflicts between the small-vessel (less than or equal to 50 ft (15.2 m) in length overall) fishing fleet and large longline fishing vessels greater than 50 ft (15.2 m) length overall, hereafter called ''large vessels,'' targeting PMUS in the American Samoa pelagic fishery, as well as regarding adverse impacts on fishery resources resulting from the increased numbers of large fishing vessels in the fishery. Due to the limited mobility of the smaller vessels, an influx of large domestic vessels fishing in the nearshore waters of the U.S. exclusive economic zone (EEZ) around American Samoa could lead to gear conflicts, catch competition, and reduced opportunities for sustained fishery participation by the locally based small boat operators. Local fishermen and associated fishing communities depend on this fishery not only for food, income, and employment, but also for the preservation of their Samoan culture.

This final rule, is a regulatory amendment under the Fishery Management Plan for the Pelagic Fisheries of the Western Pacific Region (FMP). It prohibits U.S. vessels more than 50 ft (15.2 m) in length overall from fishing for PMUS within areas 3 nm from shore (i.e., waters regulated by the government of American Samoa) to approximately 50 nm around the islands of American Samoa. The boundaries of the closed areas are defined by latitude and longitude, and are delineated as straight lines drawn point to point, except for those segments that are bounded by the outer boundary of the EEZ around American Samoa. A vessel owner whose longline vessel was registered for use under a Federal longline general permit and made at least one landing of PMUS in American Samoa on or before November 13, 1997, is exempt from this final rule. An exemption may be registered for use with other vessels owned by the same person; however, exemptions may not be applied to a replacement vessel that is larger than the vessel for which it was originally issued. If more than one person (e.g., a partnership or corporation), owned a large vessel when it was registered for use with a longline general permit, and made at least one landing of a PMUS prior to November 13, 1997, an exemption will be issued to only one person. Exemptions are not transferable between persons.

Comments and Responses

NMFS received sets of comments from three different commenters. These comments generally supported this action. NMFS addresses comments that recommended actions not in this final rule below.

Comment 1: One commenter recommended that the larger domestic longline vessels operating in the EEZ around American Samoa be required to use vessel monitoring system (VMS) units installed by NMFS to facilitate enforcement of the closed areas around American Samoa.

Response: NMFS agrees that VMS would enhance monitoring and enforcement of area closures around American Samoa as demonstrated by its application to the longline area closures around the Hawaiian Islands. However, due to budgetary constraints, NMFS is unable to provide VMS units to all the large longline vessels. NMFS may consider requiring industry to purchase VMS units for those vessels that do not already have them. However, VMS may not be necessary for an effective area closure program with adherence to these new closures and cooperation among the fishermen, both small and large fishing vessel operators and the local community to avoid conflicts and localized depletions of the fisheries.

Comment 2: One commenter recommended a more extensive 100-nm closed area around Rose Atoll, a National Wildlife Refuge. An extended area closure would provide a larger buffer zone around the atoll and safeguard against potential groundings of fishing vessels.

Response: NMFS believes the 50-nm nearshore closure provides adequate protection for the fauna and flora at Rose Atoll, while striking a balance with the needs of large domestic longline fishing vessels for access to offshore fishing grounds.

The final rule is changed from the proposed rule with respect to the coordinates specified for the boundaries of the closed areas around Swains Island and the remainder of the American Samoa islands (Tutuila Island, the Manu'a Islands, and Rose

Atoll). These coordinates describe generally rectangular shapes approximating the radius of 50-nm circles drawn around each island or island group. Although this change will not affect the intent of this action, i.e, establish 50-nm area closures, it corrects and improves the coordinates of the closure area boundaries that were published in the proposed rule. Some of those coordinates in the proposed rule were determined by utilizing outdated technology and information that resulted in area closures substantially greater than those intended by the Council. In another situation, the coordinates published for the area around Swains Island were based on an earlier Council recommendation for a 30-nm closure.

Classification

This final rule has been determined to be not significant for purposes of Executive Order 12866.

On March 30, 2001, NMFS issued a FEIS that analyzes the environmental impacts of U.S. pelagic fisheries in the western Pacific region. This analysis includes the pelagic longline fishery around American Samoa. The FEIS was filed with the Environmental Protection Agency; a Notice of Availability was published on April 6, 2001 (66 FR 18243). In November 2000, the Council prepared a background document/ environmental assessment on the prohibition on fishing for PMUS within closed areas around the islands of American Samoa. Information from this document was used to evaluate and provide the basis for adoption of the preferred alternative contained in the subsequent FEIS.

A FRFA that describes and updates the impact this final rule is likely to have on small entities was prepared and is available from (see **ADDRESSES**). A summary of the FRFA follows.

The need for and objectives of this final rule are stated in the **SUMMARY** and **SUPPLEMENTARY INFORMATION** sections of this document and are not repeated here. No comments on the initial regulatory flexibility analysis or the economic effects of this action were received. This action does not contain reporting and recordkeeping requirements or any compliance requirements that would impact small entities. It will not duplicate, overlap, or conflict with any other Federal rules. This action is taken under authority of the Magnuson-Stevens Fishery Conservation and Management Act and regulations at 50 CFR part 660.

Both large and small longline vessels affected by this final rule are considered to be ''small entities'' under guidelines issued by the Small Business Administration because they are independently owned and operated, and have annual receipts not in excess of $3 million. Based on information provided in the FRFA, this rule could potentially impact an estimated 52 active vessel operators, employing 33 small (equal to or less than less than 50 ft) longline vessels and 19 large (greater than 50 ft) longline vessels, two or three of which may qualify for exemption. It could also potentially impact an additional 22 small vessels, and 10 large vessels, which have inactive longline permits. Albacore trolling vessel operators are not anticipated to be significantly impacted as they have not historically fished in the EEZ around American Samoa. Similarly, impacts on tuna purse seine vessel operators are expected to be low as they are believed to have made a total of only eleven sets in the EEZ around American Samoa over the past decade, and will likely continue fishing outside of the closed area.

NMFS considers that this rule provides a balanced approach that allows large domestic vessels, primarily longliners, to continue fishing within two-thirds of the U.S. exclusive economic zone (EEZ) around American Samoa, while maintaining one-third for use by local small-scale fishing vessels. The overall direct economic impacts of this final rule are not quantifiable, as pelagic fisheries interactions are difficult to document and model due to inadequate data, insufficient knowledge of the biology and population dynamics of the resource, and poor understanding of environmental influences. In addition, how various gears fishing in the same time and area compete for local fishery resources and the effects on availability of the target fish are poorly understood. Although most large vessel fishing effort around American Samoa already takes place outside of the closed area and thus will be unaffected by this measure, some large vessel operators continue to fish within 50 nm of shore. This choice is due to several factors, including greater familiarity with those fishing grounds. It is estimated that the costs of this measure to the operators of these displaced large vessels will average between $1,960 to $4,900 per vessel. These costs, which are between 1 and 2.5 percent of the average annual operating costs of such vessels, depend largely on the size of the individual vessel. Once these displaced vessels become more familiar with the offshore areas, they may anticipate annual increases in vessel gross revenues which will offset the losses resulting from this closure. Current cannery prices, along with higher longline catch rates in offshore areas (as indicated by logbook data), may enable them to recoup, or potentially surpass, the losses resulting from this action.

Four alternatives to this final rule were considered and rejected. The first alternative would have closed waters within 50 nm of Tutuila Island, the Manu'a Islands, and Rose Atoll, and within 30 nm of Swains Island. This alternative was rejected because this approach would have provided unequal and insufficient protection for small vessel operators who chose to fish around Swains Island, as well as for those that might decide to become home ported there. The second alternative would have closed waters within 100 nm around all islands of American Samoa and was rejected because the potential negative economic impacts on large vessels was considered to outweigh the possible benefits to the local small-vessel fishing fleet of approximately 30 active vessels fishing generally within 50 nm from shore. The third alternative would have excluded large U.S. pelagic fishing vessels from waters around American Samoa in which the FMP already prohibits longline fishing by foreign vessels (an area approximately 20 nm around each island) and was rejected because such small closed areas would have provided insufficient protection for the local small-vessel fishing fleet. The fourth alternative to this rule was no action. This alternative was rejected as it would not provide any protection to the small vessel fleet.

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) states that for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as ''small entity compliance guides''. The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rule making process, a small entity compliance guide (compliance guide) was prepared. Copies of this final rule and the compliance guide will be sent to all holders of permits issued for the western Pacific pelagic fisheries. The compliance guide will be available at the following web site http://swr.nmfs.noaa.gov/piao/guides.htm. Copies can also be obtained from the PIAO (see **ADDRESSES**).

On October 1, 2001, NMFS completed an informal Endangered Species Act section 7 consultation on the final rule. The informal consultation concluded

that this action is not likely to adversely affect listed species or critical habitat considered in the March 29, 2001, biological opinion (BiOp) issued by NMFS for authorization of pelagic fisheries under the FMP. The informal consultation stated that there is no information that would indicate that the final rule will alter the potential for impact to listed species or critical habitat from the Federal action as analyzed in the BiOp.

List of Subjects in 50 CFR Part 660

Administrative practice and procedure, American Samoa, Fisheries, Fishing, Guam, Hawaiian Natives, Indians, Northern Mariana Islands, and Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: January 24, 2002.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 660 is amended as follows:

PART 660—FISHERIES OFF WEST COAST STATES AND IN THE WESTERN PACIFIC

1. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. Section 660.12 is amended by adding the definition of ''Large vessel'' and revising the definition of ''Length overall (LOA) or length of a vessel'' as follows:

§ 660.12 Definitions.

* * * * *

Large vessel means, as used in §§ 660.22, 660.37, and 660.38, any vessel greater than 50 ft (15.2 m) in length overall.

Length overall (LOA) or length of a vessel means, as used in §§ 660.21(i) and 660.22, the horizontal distance, rounded to the nearest foot (with any 0.5 foot or 0.15 meter fraction rounded upward), between the foremost part of the stem and the aftermost part of the stern, excluding bowsprits, rudders, outboard motor brackets, and similar fittings or attachments (see Figure 2 to this part). ''Stem'' is the foremost part of the vessel, consisting of a section of timber or fiberglass, or cast forged or rolled metal, to which the sides of the vessel are united at the fore end, with the lower end united to the keel, and with the bowsprit, if one is present, resting on the upper end. ''Stern'' is the aftermost part of the vessel.

* * * * *

3. In § 660.22, paragraph (uu) is added to read as follows:

§ 660.22 Prohibitions.

* * * * *

(uu) Use a large vessel to fish for Pacific pelagic management unit species within an American Samoa large vessel prohibited area except as allowed pursuant to an exemption issued under § 660.38.

4. A new § 660.37, under subpart C, is added to read as follows:

§ 660.37 American Samoa pelagic fishery area management.

(a) *Large vessel prohibited areas.* A large vessel of the United States may not be used to fish for Pacific pelagic management unit species in the American Samoa large vessel prohibited areas as defined in paragraphs (b) and (c) of this section, except as allowed pursuant to an exemption issued under § 660.38.

(b) *Tutuila Island, Manu'a Islands, and Rose Atoll (AS-1).* The large vessel prohibited area around Tutuila Island, the Manu'a Islands, and Rose Atoll consists of the waters of the EEZ around American Samoa enclosed by straight lines connecting the following coordinates:

Point	S. lat.	W. long.
AS-1-A	13° 30′	167° 25′
AS-1-B	15° 13′	167° 25′

and from Point AS-1-A westward along the latitude 13° 30' S. until intersecting the U.S. EEZ boundary with Samoa, and from Point AS-1-B westward along the latitude 15° 13' S. until intersecting the U.S. EEZ boundary with Samoa.(c) Swains Island (AS-2). The large vessel prohibited area around Swains Island consists of the waters of the EEZ around American Samoa enclosed by straight lines connecting the following coordinates:

Point	S. lat.	W. long.
AS-2-A	11° 48′	171° 50′
AS-2-B	11° 48′	170° 20′

and from Point AS-2-A northward along the longitude 171° 50′ W. until intersecting the U.S. EEZ boundary with Tokelau, and from Point AS-2-B northward along the longitude 170° 20′ W. until intersecting the U.S. EEZ boundary with Tokelau.

4. A new § 660.38, under subpart C, is added to read as follows:

§ 660.38 Exemptions for American Samoa large vessel prohibited areas.

(a) An exemption will be issued to a person who currently owns a large vessel, to use that vessel to fish for Pacific pelagic management unit species in the American Samoa large vessel prohibited management areas, if he or she had been the owner of that vessel when it was registered for use with a longline general permit and made at least one landing of Pacific pelagic management unit species in American Samoa on or prior to November 13, 1997.

(b) A landing of Pacific pelagic management unit species for the purpose of this section must have been properly recorded on a NMFS Western Pacific Federal daily longline form that was submitted to NMFS, as required in § 660.14.

(c) An exemption is valid only for a vessel that was registered for use with a longline general permit and landed Pacific pelagic management unit species in American Samoa on or prior to November 13, 1997, or for a replacement vessel of equal or smaller LOA than the vessel that was initially registered for use with a longline general permit on or prior to November 13, 1997.

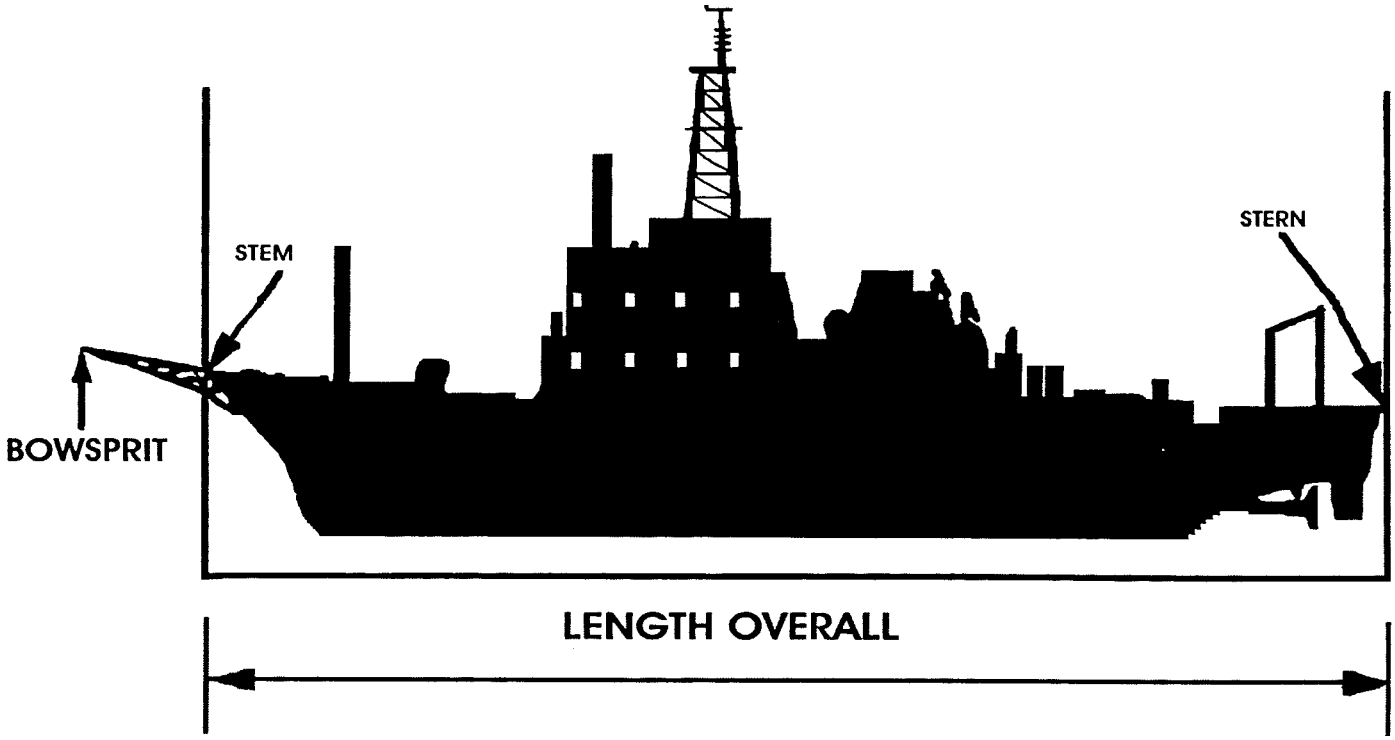
(d) An exemption is valid only for the vessel for which it is registered. An exemption not registered for use with a particular vessel may not be used.

(e) An exemption may not be transferred to another person.

(f) If more than one person, e.g., a partnership or corporation, owned a large vessel when it was registered for use with a longline general permit and made at least one landing of Pacific pelagic management unit species in American Samoa on or prior to November 13, 1997, an exemption issued under this section will be issued to only one person.

5. The caption to Figure 2 to part 660 is revised to read as follows:

Figure 2 to Part 660 - Length of Fishing Vessel



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Proposed Rules

Federal Register
Vol. 67, No. 20
Wednesday, January 30, 2002

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1500

Exemptions From Classification as Banned Hazardous Substances; Proposed Exemption for Certain Model Rocket Propellant Devices for Use With Lightweight Surface Vehicles

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed rule.

SUMMARY: The Commission is proposing to exempt from the Federal Hazardous Substances Act (''FHSA'') certain model rocket propellant devices for vehicles that travel on the ground. The Commission's current regulations exempt motors used for flyable model rockets. The proposed rule would exempt certain propellant devices for model rocket ground vehicles if they meet requirements similar to those required for flyable model rockets.

DATES: The Office of the Secretary must receive comments by April 15, 2002.

ADDRESSES: Comments, preferably in five copies, should be mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207, telephone (301) 504–0800, or delivered to the Office of the Secretary, Room 501, 4330 East-West Highway, Bethesda, Maryland 20814. Comments may also be filed by telefacsimile to (301) 504–0127 or by email to cpsc-os@cpsc.gov. Comments should be captioned ''Proposed exemption for model rocket propellant devices for surface vehicles.''

FOR FURTHER INFORMATION CONTACT: Terrance Karels, Directorate for Economic Analysis, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–0962, ext. 1320.

SUPPLEMENTARY INFORMATION:

A. Background

Section 2(q)(1)(A) of the FHSA bans toys containing hazardous substances that are accessible to a child. 15 U.S.C. 1261(q)(1)(A). However, the FHSA authorizes the Commission, by regulation, to grant exemptions from classifications as banned hazardous substances for:

> articles, such as chemistry sets, which by reason of their functional purpose require the inclusion of the hazardous substance involved, or necessarily present an electrical, mechanical, or thermal hazard, and which bear labeling giving adequate directions and warnings for safe use and are intended for use by children who have attained sufficient maturity, and may reasonably be expected to read and heed such directions and warnings.

15 U.S.C. 1261(q)(1)(A). Thus,the Commission may issue an exemption if it finds that the product requires inclusion of a hazardous substance in order for it to function, has sufficient directions and warnings, and is intended for children who are old enough to read and follow the directions and warnings. *Id.* The Food and Drug Administration, which administered the FHSA before the Commission was established, issued a rule under this authority that exempted from the definition of banned hazardous substances model rocket propellant devices (motors) designed for use in light-weight, recoverable, and reflyable model rockets, if they meet certain requirements. 16 CFR 1500.85(a)(8).

B. The Petition

The Commission received a petition from Centuri Corporation requesting that the Commission issue a rule exempting certain model rocket propellant devices to be used for model rocket surface vehicles. The petitioner requested an exemption for race cars that travel on the ground along a tethered line and are propelled in a manner similar to rockets. The petitioner requested an exemption that would allow the sale of both of its two prototype model rocket cars. The smaller car, named ''Blurzz,'' uses an ''A'' motor, and is shaped like a ''rail,'' a type of custom-made vehicle used in competitive drag racing. The larger prototype, named ''Screamin'' Eagle,'' uses a ''D'' motor, and is shaped like a ''Bonnevile Speed Record'' custom vehicle. The Commission has decided to grant the petition in part and propose an exemption for model rocket propellant devices to be used for surface vehicles like the smaller ''Blurzz'' car only.[1]

C. The Proposed Exemption

Both the Blurzz and Screamin' Eagle rocket-powered cars are designed to be operated along a tethered line. When operated along the tether, the paths of the cars are guided. A user who wishes to operate either car without the tether must physically cut the tether and remove the engine mount from it. The Commission recognizes that some users of the Screamin' Eagle and the Blurzz rocket-powered cars may operate them without the use of the tether. In such a case the path of the cars will be unguided. The Commission staff conducted limited tests of both the Screamin'' Eagle and the Blurzz without the tether and videotaped the results. The Commissioners had the opportunity to view the videotapes and to consult with both Commission staff and with the senior management of Centuri about the behavioral characteristics of the cars when they were operated without the tether.

In the case of the Screamin' Eagle, the videotapes demonstrated clearly that the car can rise to a significant height and that it travels at a high rate of speed for a considerable distance before falling to earth or encountering an obstacle. The Screamin' Eagle is also relatively heavy. There is, therefore, a significant risk of injury to any person downrange from the Screamin' Eagle when it is used in the absence of the tether. The Commission, therefore, denied the petition insofar as it seeks an exemption from the FHSA for model rocket propellant devices for cars like the Screamin' Eagle.

In the case of the Blurzz, however, senior management of Centuri represented in a meeting with Commissioner Gall, her staff, and staff from the office of Commissioner Moore on October 26, 2001 that the Blurzz failed in a ''safe'' mode. By this expression, Centuri management meant that when the rocket motor was ignited in the Blurzz in the absence of the tether, its normal behavior was to flip over onto its back and skitter about the ground, a behavior that posed little or

[1] The Commission voted 2–1 to grant the petition with regard to the smaller vehicles and deny it regarding the larger ones. Commissioners Thomas Moore and Mary Sheila Gall voted to take this action, while Chairman Ann Brown voted to deny the entire petition.

no risk. The Commissioners' observation of the staff-prepared videotapes of rocket car testing, and additional consultation with Commission staff confirmed this representation of Centuri management. When ignited without the tether the Blurzz car ordinarily simply flipped onto its back and skittered around on the ground. Even when the Blurzz did not flip immediately onto its back, it traveled downrange only a very limited distance, and rose only a few inches in the air, before flipping onto its back. The petitioner asserts that the experience of trying to operate the Blurzz without the tether results in little user satisfaction, meaning that users are unlikely to continue the practice. Moreover, the rocket motor used in the Blurzz is of limited thrust, and the vehicle and the rocket motor combined are very light. Even if a person were downrange from the Blurzz in the absence of the tether, the Blurzz would strike only a light blow a few inches above the ground.

On the basis of its meeting with Centuri management, and its observation of the videotapes of the testing of the Blurzz, the Commission finds that there is a reasonable probability that model rocket propellant devices for surface vehicles like the Blurzz present no unreasonable risk of injury even when operated in reasonably foreseeable misuse without the tether. The Commission, therefore, proposes to exempt model rocket propellant devices for surface vehicles like the Blurzz from the ban that would otherwise be imposed by the FHSA.

In order to grant an exemption from the ban that would ordinarily be imposed by the FHSA, the Commission must find that the labeling that accompanies model rocket propellant devices for surface vehicles like the Blurzz gives adequate directions and warnings for safe use. The Commission must also find that the product is intended for use by children who have attained sufficient maturity and that those children may reasonably be expected to read and heed the directions and warnings. The Blurzz is intended for use by children aged 12 and above. The Commission finds that those children interested in model rockets and rocket vehicles such as the Blurzz are of sufficient maturity that they may reasonably be expected to read and heed the directions for use and warnings that accompany model rocket surface vehicles like the Blurzz. The Commission finds further that those directions and warnings are adequate to guide users in the safe use of the product.

D. Impact on Small Business

The staff preliminarily assessed the impact that a rule to exempt model rocket propellant devices for use with surface vehicles like the ''Blurzz'' might have on small businesses. Because the proposed exemption would relieve manufacturers from existing restrictions, the staff expects that the exemption would impose no additional costs to businesses of any size. Rather, it would allow companies to manufacture and market a product currently prohibited under the FHSA.

Based on this assessment, the Commission preliminarily concludes that the proposed amendment exempting model rocket propellant devices for surface vehicles like the ''Blurzz'' would not have a significant impact on a substantial number of small businesses or other small entities.

E. Environmental Considerations

Pursuant to the National Environmental Policy Act, and in accordance with the Council on Environmental Quality regulations and CPSC procedures for environmental review, the Commission has assessed the possible environmental effects associated with the proposed exemption.

The Commission's regulations state that rules issuing or amending safety standards for consumer products normally have little or no potential for affecting the human environment. 16 CFR 1021.5(c)(1). Nothing in this proposed rule alters that expectation. Therefore, because the rule would have no adverse effect on the environment, neither an environmental assessment nor an environmental impact statement is required.

F. Executive Orders

According to Executive Order 12988 (February 5, 1996), agencies must state in clear language the preemptive effect, if any, of new regulations.

The FHSA provides that, generally, if the Commission issues a rule under section 2(q) of the FHSA to protect against a risk of illness or injury associated with a hazardous substance,''no State or political subdivision of a State may establish or continue in effect a requirement applicable to such substance and designed to protect against the same risk of illness or injury unless such requirement is identical to the requirement established under such regulations.'' 15 U.S.C. 1261n(b)(1)(B). (The FHSA also provides for the state or political subdivision of a state to apply for an exemption from preemption if certain requirements are met.) Thus, the proposed rule exempting model rocket propellant devices for use with certain surface vehicles would preempt non-identical requirements for such propellant devices.

The Commission has also evaluated the proposed rule in light of the principles stated in Executive Order 13132 concerning federalism, even though that Order does not apply to independent regulatory agencies such as CPSC. The Commission does not expect that the proposed rule will have any substantial direct effects on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among various levels of government.

List of Subjects in 16 CFR Part 1500

Consumer protection, Hazardous materials, Hazardous substances, Imports, Infants and children, Labeling, Law enforcement, and Toys.

Conclusion

For the reasons stated above, the Commission preliminarily concludes that, with the requirements stated in the proposed exemption, model rocket propellant devices to propel lightweight surface vehicles like the Blurzz require inclusion of a hazardous substance in order to function, have sufficient directions and warnings for safe use, and are intended for children who are mature enough that they may reasonably be expected to read and head the directions and warnings. Therefore, the Commission proposes to amend title 16, chapter II of the Code of Federal Regulations as follows:

PART 1500—HAZARDOUS SUBSTANCES AND ARTICLES: ADMINISTRATION AND ENFORCEMENT REGULATIONS

1. The authority for part 1500 continues to read as follows:

Authority: 15 U.S.C. 1261–1278.

2. Section 1500.85 is amended by adding a new paragraph (a)(14) to read as follows:

§ 1500.85 Exemptions from classification as banned hazardous substances.

(a) * * *

(14) Model rocket propellant devices (model rocket motors) designed to propel lightweight surface vehicles such as model rocket cars, provided—

(i) Such devices:

(A) Are designed to be ignited electrically and are intended to be operated from a minimum distance of 15 feet (4.6 m) away;

(B) Contain no more than 4 g. of propellant material and produce no more than 2.5 Newton-seconds of total impulse with a thrust duration not less than 0.050 seconds;

(C) Are constructed such that all the chemical ingredients are pre-loaded into a cylindrical paper or similarly constructed non-metallic tube that will not fragment into sharp, hard pieces;

(D) Are designed so that they will not burst under normal conditions of use, are incapable of spontaneous ignition, and do not contain any type of explosive or pyrotechnic material other than a delay and small recovery system activation charge;

(E) Bear labeling, including labeling that the devices are intended for use by persons age 12 and older, and include instructions providing adequate warnings and instructions for safe use; and

(F) Comply with the requirements of 16 CFR 1500.83(a)(36)(i) through (iii); and

(ii) The surface vehicles intended for use with such devices:

(A) Are lightweight, weighing no more than 3.0 oz. (85 grams), and constructed mainly of materials such as balsa wood or plastics that will not fragment into sharp, hard pieces;

(B) Are designed to utilize a braking system such as a parachute or shock absorbing stopping mechanism;

(C) Are designed so that they cannot accept propellant devices measuring larger than 0.5″ (13 mm) in diameter and 1.75″ (44 mm) in length;

(D) Are designed so that the engine mount is permanently attached by the manufacturer to a track or track line that controls the vehicle's direction for the duration of its movement;

(E) Are not designed to carry any type of explosive or pyrotechnic material other than the model rocket motor used for primary propulsion; and

(F) Bear labeling and include instructions providing adequate warnings and instructions for safe use.

* * * * *

3. Section 1500.83(a)(36)(i) is revised to read as follows:

§ 1500.83 Exemptions for small packages, minor hazards, and special circumstances.

(a) * * *

(36) * * *

(i) The devices are designed and constructed in accordance with the specifications in § 1500.85(a)(8), (9) or (14);

* * * * *

Dated: January 22, 2002.

Todd Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 02–2059 Filed 1–29–02; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

RIN 0720–AA69

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Voluntary Disenrollment From the TRICARE Retiree Dental Program (TRDP)

AGENCY: Office of the Secretary, DoD.

ACTION: Proposed rule.

SUMMARY: This proposed rule implements section 726 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, which amended 10 U.S.C. 1076c to allow for voluntary disenrollment from the TRICARE Retiree Dental Program in certain circumstances.

DATES: Comments must be received on or before April 1, 2002.

ADDRESSES: TRICARE Management Activity (TMA), Special Contracts and Operations Office, 16401 East Centretech Parkway, Aurora, CO 80011–9043.

FOR FURTHER INFORMATION CONTACT: Linda Winter, Special Contracts and Operations Office, TMA, (303) 676–3682.

SUPPLEMENTARY INFORMATION:

I. Background

The TRICARE Retiree Dental Program (TRDP), a voluntary dental insurance plan completely funded by enrollees' premiums, was implemented in 1998 based on the authority of 10 U.S.C. 1076c. The enabling legislation specifies that the Secretary of Defense shall prescribe a minimum required period for enrollment and allows enrollment to be terminated only for loss of eligibility and failure to pay premiums. There was no provision for enrollees to voluntarily terminate their enrollment before the enrollment commitment was fulfilled. Accordingly, the implementing regulation, 32 CFR 199.22, allows termination of enrollment during the required enrollment period only for the ineligibility and premium default reasons.

In section 726 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, Public Law 106–398, Congress responded to concerns that the enabling legislation was too restrictive by not allowing enrollees to voluntarily terminate their enrollment before the completion of their enrollment commitment when continued enrollment would be of no benefit to them. Section 726 amended 10 U.S.C. 1076c to direct the Secretary of Defense to allow an enrollee to disenroll at the beginning of the prescribed enrollment period and to permit disenrollment thereafter under limited circumstances providing that the fiscal integrity of the dental program is not jeopardized. The amendment specifies the inclusion of the following circumstances: assignment of Federal employment outside the dental plan jurisdiction that prevents utilization of the plan's benefits, a serious medical condition that prevents utilization of the plan's benefits, and severe financial hardship. In addition, the amendment requires a process for appealing adverse decisions to OCHAMPUS.

II. Provisions to the Proposed Rule.

This proposed rule expands the voluntary termination provision originally published in an interim final rule in the **Federal Register** on August 14, 2000 (65 FR 49491). Under the statutory mandate for voluntary enrollment, that provision implemented a grace period in which a new enrollee could voluntarily disenroll during the first thirty days following the beginning date of coverage on the condition that no benefits had been used and effectively nullify the enrollment. It also designated the TRDP contractor as the authority for grace period disenrollment decisions.

This proposed rule establishes another opportunity for voluntary disenrollment that is based on the extenuating circumstances specified in the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001. The TRDP contractor continues as the authority for voluntary disenrollment decisions but only at the initial level. The rule establishes a process for enrollees to appeal to OCHAMPUS all adverse decisions made by the contractor in response to requests for voluntary disenrollment.

In addition, the proposed rule makes the following administrative changes: Corrects a typographical error in a reference to the Assistant Secretary of Defense (Health Affairs); replaces references to the TRICARE Active Duty Dependents Dental Plan with the name of its successor, the TRICARE Dental Program; removes the forwarding of grievances to OCHAMPUS for final

review; and replaces the reference to the appeals process for the TRICARE Dental Program at section 199.13(h) with a reference to the OCHAMPUS appeals process as section 199.10 as governing for the TRDP.

III. Rulemaking Procedures

Executive Order 12866 requires certain regulatory assessments for any ''significant regulatory action,'' defined as one that would result in an annual effect on the economy of $100 million or more, or have other substantial impacts. The Regulatory Flexibility Act requires that each federal agency prepare, and make available for public comment, a regulatory flexibility analysis when the agency issues a regulation that would have a significant impact on a substantial number of small entities. This rule has been designated as significant and has been reviewed by the Office of Management and Budget as required under the provisions of E.O. 12866.

Furthermore, pursuant to section 605 of the Regulatory Flexibility Act (5 U.S.C. 605), we hereby certify that this rule will not have a significant economic impact on a substantial number of small entities. This rule affects only the manner in which enrollment in the TRICARE Retiree Dental Program is administered. This rule will impact only enrollees in that program and the contractor responsible for administering the program.

This rule will not impose additional information collection requirements on the public under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

List of Subjects in 32 CFR Part 199

Claims, Dental health, Health insurance, Individuals with disabilities, Military personnel.

Accordingly, 32 CFR 199 is proposed to be amended as follows:

PART 199—[AMENDED]

1. The authority citation for Part 199 continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. chapter 55.

2. Section 199.22 is proposed to be amended by revising paragraphs (b)(4) and (c), the first two sentences of paragraph (d)(1)(iv) introductory text, and paragraphs (d)(1)(v), (d)(4)(ii), (d)(5)(ii), (e)(2) and (k) to read as follows.

§ 199.22 TRICARE Retiree Dental Program (TRDP).

* * * * *

(b) * * *

(4) Except as otherwise provided in this section or by the Assistant Secretary of Defense (Health Affairs) or designee, the TRDP is administered in a manner similar to the TRICARE Dental Program under § 199.13.

* * * * *

(c) *Definitions.* Except as may be specifically provided in this section, to the extent terms defined in § 199.2 and 199.13(b) are relevant to the administration of the TRICARE Retiree Dental Program, the definitions contained in §§ 199.2 and 199.13(b) shall apply to the TRDP as they do to CHAMPUS and the TRICARE Dental Program.

(d) * * *

(1) * * *

(iv) Eligible dependents of a member described in paragraph (d)(1)(i) or paragraph (d)(1)(ii) of this section when the member is not enrolled in the program and the member meets at least one of the conditions in paragraphs (d)(1)(iv)(A) through (C) of this section. Already enrolled members must satisfy any remaining enrollment commitment prior to enrollment of dependents becoming effective under this paragraph, at which time the dependent-only enrollment will continue on a voluntary basis as specified in paragraph (d)(4) of this section. * * *

(v) The unremarried surviving spouse and eligible child dependents of a deceased member who died while in status described in paragraphs (d)(1)(i) or (d)(1)(ii) of this section; the unremarried surviving spouse and eligible child dependents who receive a surviving spouse annuity; or the unremarried surviving spouse and eligible child dependents of a deceased member who died while on active duty for a period of more than 30 days and whose eligible dependents are not eligible or no longer eligible for the TRICARE Dental Program.

* * * * *

(4) * * *

(ii) *Enrollment period for enhanced benefits.* The initial enrollment period for enhanced benefit coverage described in paragraph (f)(2) of this section shall be established by the Director, OCHAMPUS, or designee, when such coverage is offered, to be a period of not less than 12 months and not more than 24 months. The initial enrollment period shall be followed by renewal periods of up to 12 months as long as the enrollee chooses to continue enrollment and remains eligible. An enrollee who chooses not to continue enrollment upon completion of an enrollment period may re-enroll at any time. However, an enrollee who is disenrolled from the TRDP before completion of an initial or subsequent enrollment period for reason other than those in paragraphs (d)(5)(ii)(A) and (B) of this section shall incur a lockout period of 12 months before re-enrollment can occur. Former enrollees who re-enroll following a lockout period or following a period of disenrollment after completion of an enrollment period must comply with all provisions that apply to new enrollees, including a new enrollment commitment.

(5) * * *

(ii) *Voluntary termination.* All enrollee requests for termination of TRDP coverage before the completion of an enrollment period shall be submitted to the TRDP contractor for determination of whether the enrollee qualifies to be disenrolled under paragraphs (d)(5)(ii)(A) or (B) of this section.

(A) *Enrollment grace period.* Regardless of the reason, TRDP coverage shall be cancelled, or otherwise terminated, upon request from an enrollee if the request is received by the TRDP contractor within thirty (30) calendar days following the enrollment effective date and there has been no use of TRDP benefits under the enrollment during that period. If such is the case, the enrollment is voided and all premium payments are refunded. However, use of benefits during this 30-day enrollment grace period constitutes acceptance by the enrollee of the enrollment and the enrollment period commitment. In this case, a request for termination of enrollment under paragraph (d)(5)(ii)(A) of this section will not be honored, and premiums will not be refunded.

(B) *Extenuating circumstances.* Under limited circumstances, TRDP enrollees shall be disenrolled by the contractor before the completion of an enrollment period commitment upon request by an enrollee if the enrollee submits written, factual documentation that independently verifies that one of the following extenuating circumstances occurred during the enrollment period. In general, the circumstances must be unforeseen and long-term and must have originated after the effective date of TRDP coverage.

(*1*) The enrollee is a Federal employee who has received an assignment to a location outside the jurisdiction of the TRDP that prevents utilization of TRDP benefits,

(*2*) The enrollee is prevented by a serious medical condition from being able to utilize TRDP benefits, or

(*3*) The enrollee would suffer severe financial hardship by continuing TRDP enrollment.

(C) *Effective date of voluntary termination.* For cases determined to qualify for disenrollment under the grace period provisions in paragraph (d)(5)(ii)(A) of this section, enrollment is completely nullified effective from the beginning date of coverage. For cases determined to qualify for disenrollment under the extenuating circumstances provisions in paragraph (d)(5)(ii)(B) of this section, the effective date of disenrollment is the first of the month following the contractor's initial determination on the disenrollment request or the first of the month following the last use of TRDP benefits under the enrollment, whichever is later.

(D) *Appeal process for denied voluntary enrollment termination.* An enrollee has the right to appeal to OCHAMPUS the contractor's determination that a disenrollment request does not qualify under paragraphs (d)(5)(ii)(A) or (B) of this section. The enrollee may appeal that determination by submitting a written request to OCHAMPUS with a copy of the contractor's determination notice and relevant documentation supporting the disenrollment request. This appeal must be received by OCHAMPUS within 60 days of the date of the contractor's determination notice. The burden of proof is on the enrollee to establish affirmatively by substantial evidence that the enrollee qualifies to be disenrolled under paragraphs (d)(5)(ii)(A) or (B) of this section. OCHAMPUS will issue written notification to the enrollee and the contractor of its appeal determination within 60 days from the date of receipt of the appeal request. The decision of OCHAMPUS is final.

* * * * *

(e) * * *

(2) *Effects of failure to make premium payments.* Failure to make premium payments will result in the enrollee's disenrollment from the TRDP and a lock-out period of 12 months. Following this period of time, eligible individuals will be able to re-enroll if they so choose.

* * * * *

(k) *Appeal procedures.* All levels of appeal established by the contractor shall be exhausted prior to an appeal being filed with OCHAMPUS. Procedures comparable to those established for appeal of benefit determinations under § 199.10 shall apply together with the procedures for appeal of voluntary disenrollment determinations described in paragraph (d)(5)(ii)(D) of this section.

* * * * *

Dated: January 24, 2002.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 02–2173 Filed 1–29–02; 8:45 am]

BILLING CODE 5001–08–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD–FRL–7136–2]

Amendments to Standards of Performance for New Stationary Sources; Monitoring Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; notice of public hearing and reopening of comment period.

SUMMARY: This document announces an informal public hearing EPA is holding to take comments on the Agency's proposed rule for Performance Specification 11 (PS–11): Specifications and Test Procedures for Particulate Matter Continuous Emission Monitoring Systems at Stationary Sources and Procedure 2: Quality Assurance Requirements for Particulate Matter Continuous Monitoring Systems at Stationary Sources (Procedure 2), published on December 12, 2001. The comment period for the above-named action is also being reopened for an additional 60-days.

DATES: *Public Hearing.* The public hearing will be held on Friday, February 22, 2002, from 9:30 a.m. to 4 p.m. (EST). The hearing may conclude prior to 4 p.m., depending on the number of attendees and level of interest. If you are interested in attending the hearing, you must call the contact person listed below (see **FOR FURTHER INFORMATION CONTACT**).

Comments. You must submit comments so that they are received on or before March 12, 2002.

Request to Speak at Hearing. If you wish to present oral testimony at the public hearing, you must call the contact person listed below.

ADDRESSES: *Public Hearing:* The location for this public hearing will be the Environmental Research Center Auditorium, Research Commons, 86 T.W. Alexander Drive, Research Triangle Park, NC 27711.

Comments: You may submit your comments by electronic mail (e-mail) to: *a-and-r-docket@epa.gov* and *bivins.dan@epa.gov.* You must submit e-mail comments either as an ASCII file avoiding the use of special characters and any form of encryption or as an attachment in WordPerfect ® version 5.1, 6.1 or Corel 8 file format. You must note the docket number: (A–2001–10) on all comments and data submitted in electronic form. Do not submit confidential business information (CBI) by e-mail. Electronic comments may be filed online at many Federal Depository Libraries.

Worldwide Web (WWW). In addition to being available in the docket, you can find an electronic copy of the December 12 proposal on the WWW through the Technology Transfer Network (TTN). A copy of the proposal has been posted on the Emission Measurement Center's TTN web site at *http://www.epa.gov/ttn/emc* under Monitoring. We are only accepting comment on the items in that proposal, including supplemental comments or comments in rebuttal to information received at the public hearing. The TTN provides information and technology exchange in various areas of air pollution control. If you need more information regarding the TTN, call the TTN HELP line at (919) 541–5384.

FOR FURTHER INFORMATION CONTACT: For information concerning the hearing or the December 12 proposal, contact Mr. Daniel G. Bivins, Emission Measurement Center (D–220D), Emissions, Monitoring, and Analysis Division, U. S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5244.

SUPPLEMENTARY INFORMATION: EPA published its proposed rule for PS–11 and Procedure 2 in the **Federal Register** on December 12, 2001 (66 FR 64176–64207). In that notice EPA proposes to revise portions of a previously proposed rule concerning particulate matter continuous emission monitoring to respond to comments received on that previous proposal and to reflect relevant new information obtained subsequent to that proposal. In the December 12 notice, EPA provided a 30-day public comment period on the supplemental proposal (ending January 11, 2002), and also indicated that a public hearing would be held if requested by any member of the public and that if a hearing is held, rebuttal and supplementary information may be submitted to the docket for 30 days following the hearing.

EPA received six comments requesting a public hearing and also requesting that the 30-day public

comment period be extended for an additional 60 days. Since EPA now intends to hold a hearing and to accept comments until March 12, we believe that this 60-day reopening of the comment period is sufficient to enable interested members of the public to further evaluate the proposed rule as well as any comments received at the public hearing.

The proposed rule is available electronically on the Internet at the web address shown above. The proposed rule and supporting materials are also available for viewing in the Air and Radiation Docket and Information Center, located at 1200 Pennsylvania Avenue, NW., (Ariel Rios Building), 2nd Floor, Room 2213, Washington, DC 20460. The documents are available for viewing from 9 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays. To review docket materials, it is recommended that the public make an appointment by calling (202) 564–2614 or (202) 564–2119.

Dated: January 25, 2002.

Robert D. Brenner,

Principal Deputy Assistant Administrator, Office of Air and Radiation.

[FR Doc. 02–2232 Filed 1–29–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[MD001–1000; FRL–7136–1]

Approval of Section 112(l) Authority for Hazardous Air Pollutants; State of Maryland; Department of the Environment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve Maryland Department of the Environment's (MDE's) request for delegation of authority to implement and enforce its hazardous air pollutant regulations for perchloroethylene dry-cleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning, secondary lead smelting, hazardous waste combustors, and portland cement manufacturing which have been adopted by reference from the Federal requirements set forth in the Code of Federal Regulations. This proposed approval will automatically delegate future amendments to these regulations once MDE incorporates these amendments into its regulations. In addition, EPA is proposing to approve of MDE's mechanism for receiving delegation of future hazardous air pollutant regulations. This mechanism entails MDE's incorporation by reference of the unchanged Federal standard into its hazardous air pollutant regulation and MDE's notification to EPA of such incorporation. This action pertains only to affected sources, as defined by the Clean Air Act hazardous air pollutant program, which are not located at major sources, as defined by the Clean Air Act operating permit program. In the Final Rules section of this **Federal Register**, EPA is approving the State's request for delegation of authority as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Written comments must be received on or before March 1, 2002.

ADDRESSES: Written comments on this action should be sent concurrently to: Makeba A. Morris, Chief, Permits and Technical Assessment Branch, Mail Code 3AP11, Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103–2029, and Anne Marie DeBiase, Director, Air and Radiation Management Administration, Maryland Department of the Environment, 2500 Broening Highway, Baltimore, MD 21224. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103 and the Maryland Department of the Environment, 2500 Broening Highway, Baltimore, MD 21224.

FOR FURTHER INFORMATION CONTACT: Dianne J. McNally, 215–814–3297, at the EPA Region III address above, or by e-mail at *mcnally.dianne@epa.gov.* Please note that any formal comments must be submitted, in writing, as provided in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION: For further information on this action, pertaining to approval of MDE's delegation of authority for the hazardous air pollutant emission standards for perchloroethylene dry-cleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning, secondary lead smelting, hazardous waste combustors, and portland cement manufacturing (Clean Air Act section 112), please see the information provided in the direct final action, with the same title, that is located in the ''Rules and Regulations'' section of this **Federal Register** publication.

Dated: January 22, 2002.

Judith M. Katz,

Director, Air Protection Division,Region III.

[FR Doc. 02–2231 Filed 1–29–02; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 63

[PA001–1002; FRL–7135–4]

Approval of Section 112(l) Authority for Hazardous Air Pollutants and the Chemical Accident Prevention Provisions; Allegheny County; Health Department

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve Allegheny County Health Department's (ACHD's) request for delegation of authority to implement and enforce its hazardous air pollutant and accidental release prevention regulations which have been adopted by reference from the Federal requirements set forth in the Code of Federal Regulations. This proposed approval will automatically delegate future amendments to these regulations. For sources which are required to obtain a Clean Air Act operating permit, this proposed delegation addresses all existing hazardous air pollutant regulations. For sources which are not required to obtain a Clean Air Act operating permit, this proposed delegation presently addresses the hazardous air pollutant regulations for perchloroethylene drycleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning, secondary lead smelting, hazardous waste combustors, portland cement manufacturing, and

secondary aluminum smelting. This proposed delegation addresses all sources subject to the accidental release prevention regulations. In addition, EPA is proposing to automatically delegate all future hazardous air pollutant regulations which ACHD adopts unchanged from the Federal requirements. EPA is not waiving its notification and reporting requirements under this proposed approval; therefore, sources will need to send notifications and reports to both ACHD and EPA. This action pertains to affected sources, as defined by the Clean Air Act's hazardous air pollutant program, and covered processes, as defined by the Clean Air Act's chemical accident prevention provisions. EPA is taking this action in accordance with the Clean Air Act. In the Final Rules section of this **Federal Register**, EPA is approving ACHD's request for delegation of authority as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Written comments must be received on or before March 1, 2002.

ADDRESSES: Written comments on this action should be sent concurrently to: Makeba A. Morris, Chief, Permits and Technical Assessment Branch, Mail Code 3AP11, Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103–2029, and Roger C. Westman, Manager, Air Quality Program, Allegheny County Health Department, 301 39th Street, Pittsburgh, PA 15201–8103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103 and Allegheny County Health Department, 301 39th Street, Pittsburgh, PA 15201–8103.

FOR FURTHER INFORMATION CONTACT: Dianne J. McNally, 215–814–3297, at the EPA Region III address above, or by e-mail at *mcnally.dianne@epa.gov.* Please note that any formal comments must be submitted, in writing, as provided in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION: For further information on this action, pertaining to approval of ACHD's delegation of authority for all hazardous air pollutant emission standards, as they apply to facilities required to obtain a Clean Air Act operating permit; the hazardous air pollutant emission standards for perchloroethylene drycleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning, secondary lead smelting, hazardous waste combustors, portland cement manufacturing, and secondary aluminum smelting, as they apply to facilities not required to obtain a Clean Air Act operating permit; and, the chemical accident prevention provisions, as they apply to all facilities (Clean Air Act section 112), please see the information provided in the direct final action, with the same title, that is located in the ''Rules and Regulations'' section of this **Federal Register** publication.

Dated: January 22, 2002.

Judith M. Katz,

Director, Air Protection Division, Region III.

[FR Doc. 02–2229 Filed 1–29–02; 8:45 am]

BILLING CODE 6560–50–U

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 533

[Docket No. NHTSA–2001–11048]

RIN 2127–AI68

Light Truck Average Fuel Economy Standard, Model Year 2004

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Proposed rule; correction.

SUMMARY: This document corrects the preamble to a proposed rule published in the **Federal Register** of January 24, 2002, regarding the Light Truck Average Fuel Economy Standard for the 2004 model year. This correction inserts text that regarding the analysis of the environmental impacts of the proposal that was inadvertently omitted from the preamble.

FOR FURTHER INFORMATION CONTACT: Otto Matheke, Office of the Chief Counsel, NHTSA, at 202–366–5263.

Correction

In proposed rule, FR Doc. 02–1675, beginning on page 3472 in the issue of January 24, 2002, make the following correction in the Impact Analyses section. On page 3472 in the second column, add the following correction below the Environmental Impacts heading:

''We have not conducted an evaluation of the impacts of this proposal under the National Environmental Policy Act. NHTSA is proposing to set the 2004 model year light truck CAFE standard at the same level as the standard applicable to the 1999 through 2003 model years. As this proposal maintains the fuel economy standard at the same level as prior years, it does not impose any environmental impacts. Accordingly, no environmental assessment is required.''

Dated: January 25, 2002.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 02–2268 Filed 1–28–02; 10:38 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 020103001–2001–01;I.D. 122001B]

RIN: 0648–AN43

Preventing Harassment From Human Activities Directed at Marine Mammals in the Wild

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: NMFS is considering whether to propose regulations to protect marine mammals in the wild from human activities that are directed at the animals and that have the potential to harass the animals. The scope of this advance notice of proposed rulemaking (ANPR) encompasses any activity of any person or conveyance engaged in direct interactions with marine mammals in the wild. NMFS requests comments on what type of regulations and other measures would be appropriate to prevent harassment of marine mammals in the wild caused by human activities directed at the animals.

DATES: Comments must be received at the appropriate address or fax number (see **ADDRESSES**) no later than April 1, 2002.

ADDRESSES: Comments on this Advance Notice of Proposed Rulemaking (ANPR) should be addressed to Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910, or fax to 301–713–0376.

FOR FURTHER INFORMATION CONTACT: Trevor Spradlin, Office of Protected Resources, 301–713–2289.

SUPPLEMENTARY INFORMATION:

Background

Viewing whales, dolphins, porpoises, seals and sea lions in their natural habitat can be an educational and enriching experience if conducted safely and responsibly. Over the past decade, whale watching activities have grown into a billion dollar ($US) industry involving over 80 countries and territories and over 9 million participants (Hoyt 2001). Increasing numbers of commercial operations are offering close interactions with wild marine mammals, including opportunities to swim with, touch or handle the animals.

As human interactions with wild marine mammals increase, the risk of disturbing or injuring the animals also increases. The following human activities directed at marine mammals in the wild are of particular concern to NMFS:

''Swim-with'' activities: Over the past several years, swimming with wild dolphins has significantly increased in the Southeast U.S. and Hawaii, and is beginning to expand to other U.S. coastal areas and to other species of marine mammals. In the Southeast, swimming with bottlenose dolphins appears to be facilitated by illegal feeding activities, which have been prohibited since 1991 when NMFS amended the definition of ''take'' under 50 CFR 216.3 to include feeding or attempting to feed a marine mammal (56 FR 11693, March, 20, 1991). In Hawaii, where feeding of wild dolphins has not been a concern, swim activities primarily target Hawaiian spinner dolphins and take advantage of the dolphins' use of shallow coves and bays during the day to rest and care for their young. In the Southwest, tour operators are offering opportunities to dive and swim with gray whales, pilot whales, Pacific white-sided dolphins, harbor seals, and sea lions.

Vessel-based interactions: The use of motorized or non-motorized vessels (*e.g.*, outboard or inboard boats, kayaks, canoes, underwater scooters, or other types of water craft) to interact with marine mammals in the wild is also a rapidly growing activity nationwide. For example, NMFS has received complaints from researchers and members of the public that include: (1) operators of motorized vessels driving through groups of dolphins in order to elicit bow-riding behavior (e.g., bottlenose dolphins in the Southeast, spinner dolphins in Hawaii, Dall's porpoise in the Northwest); (2) kayakers and canoers utilizing the quiet nature of their vessels to closely approach and observe or photograph cetaceans and pinnipeds (e.g., killer whales in the Northwest, large whales and pinnipeds in California and the Northeast); (3) whale watchers attempting to touch and pet gray whales in California; (4) people using underwater ''scooters'' to closely approach, pursue and interact with the animals (*e.g.*, dolphins in the Southeast); and (5) operators of personal watercraft tightly circling or crossing through groups of dolphins, often at high speed, to closely approach, pursue and interact with the animals (e.g., dolphins along the mid-Atlantic and Gulf of Mexico).

Land-based interactions: Public interactions with marine mammals on land have increased in recent years. Elephant seals, harbor seals and sea lions in the Southwest, and monk seals in Hawaii, are closely approached by people for the purpose of observing them, posing with them for pictures, touching, petting, poking, throwing objects at them to elicit a reaction, or simply strolling among them.

Researchers monitoring the effects of human disturbance on wild marine mammals report boat strikes, disruption of behaviors and social groups, separation of mothers and young, abandonment of resting areas, and habituation to humans (for some examples, see Kovacs and Innes 1990, Kruse 1991, Janik and Thompson 1996, Wells and Scott 1997, Christie 1998, Samuels and Bejder 1998, Bejder *et al.* 1999, Colborn 1999, Constantine 1999, Cope *et al.* 1999, Mortenson *et al.* 2000, Samuels et al. 2000, Constantine 2001, Lelli and Harris 2001, Nowacek *et al.* 2001).

In addition, there are significant public safety considerations as people have been seriously injured while trying to interact with wild marine mammals. People have been bitten or otherwise injured while trying to closely approach, feed, swim with, pet or interact with wild cetaceans or pinnipeds (Webb 1978, Shane et al. 1993, NMFS 1994, Wilson 1994, Orams *et al.* 1996, Seideman 1997, Christie 1998, Samuels and Bejder 1998, Samuels *et al.* 2000). In one case, a dolphin killed a swimmer who was harassing the animal (Santos 1997). Some marine mammals that have injured people have been labeled as ''nuisance animals,'' and individuals have requested the animals be removed from the wild or euthanized.

The Marine Mammal Protection Act of 1972, 16 U.S.C. 1361 *et seq.* (MMPA), prohibits the ''take'' of marine mammals which includes ''harassment.'' Section 3(13) of the MMPA defines the term ''take'' as ''to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal.'' Section 3(18)(A) of the MMPA defines the term ''harassment'' as ''any act of pursuit, torment, or annoyance which – (i) has the potential to injure a marine mammal or marine mammal stock in the wild, (Level A harassment), or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).''

In addition, NMFS regulations implementing the MMPA specify that the term ''take'' includes: the negligent or intentional operation of an aircraft or vessel, or the doing of any other negligent or intentional act which results in disturbing or molesting a marine mammal; and feeding or attempting to feed a marine mammal in the wild (50 CFR 216.3).

The MMPA does not provide for a permit or other authorization process to view or interact with wild marine mammals, except for specific listed purposes such as scientific research. Therefore, interacting with wild marine mammals should not be attempted, and viewing marine mammals must be conducted in a manner that does not harass the animals. NMFS cannot support, condone, approve or authorize activities that involve closely approaching, interacting or attempting to interact with whales, dolphins, porpoises, seals or sea lions in the wild. This includes attempting to swim with, pet, touch or elicit a reaction from the animals. NMFS believes that such interactions constitute ''harassment'' as defined in the MMPA since they involve acts of pursuit, torment or annoyance that have the potential to injure or disrupt the behavioral patterns of wild marine mammals.

Each of the five NMFS Regions has developed recommended viewing guidelines to educate the general public on how to responsibly view marine

mammals in the wild and avoid harassing them (e.g., minimum approach distances for observing the animals on land or on board a vessel; use binoculars or telephoto lenses to get a good view of the animals; limit observation time to 30 minutes or less). NMFS Regional Wildlife Viewing Guidelines for Marine Mammals are available on line at: http://www.nmfs.noaa.gov/prot_res/MMWatch/MMViewing.html

NMFS recognizes that there are situations where wild marine mammals will approach people on their own accord, either out of curiosity or to ride the bow wave/surf the stern wake of a vessel underway. If wild marine mammals approach a vessel underway, NMFS recommends that the vessel maintain its course and avoid abrupt changes in direction or speed to avoid running over or injuring the animals. Vessels that are stationary should remain still to allow the animals to pass. If wild marine mammals enter an area used by swimmers or divers, NMFS recommends avoiding abrupt movements and moving away. Under no circumstances should people try to feed, touch, pet, ride or chase marine mammals in the wild.

To support these guidelines, NMFS initiated a nationwide education and outreach program and in 1997 expanded its efforts by developing the ''Protect Dolphins'' campaign to address growing concerns about feeding and harassment activities with wild dolphins in the Southeast. In 1998, NMFS further expanded its education and outreach efforts by joining Watchable Wildlife, a consortium of federal and state wildlife agencies and wildlife interest groups that encourages passive viewing of wildlife from a distance for the safety and well-being of both animals and people (Duda 1995, Oberbillig 2000).

The guidelines have relied on voluntary compliance by the public and commercial operators. Although ''takes'' may be prosecuted under the MMPA, the guidelines themselves are not enforceable. After more than a decade of extensive efforts to promote NMFS' educational message and marine mammal viewing guidelines, noncompliance continues. For example, advertisements on the Internet and in local media in Hawaii, California and Florida are promoting activities that clearly contradict the NMFS guidelines and appear to depict harassment of the animals. NMFS has received letters from the Marine Mammal Commission (MMC), members of the scientific research community, environmental groups, the public display community, and members of the general public expressing the view that swimming with and other types of interactions with wild marine mammals have the potential to harass the animals by causing injury or disruption of normal behavior patterns. NMFS has also received inquiries from members of the public and commercial tour operators requesting clarification on NMFS' policy and the MMPA restrictions on closely approaching, swimming with or interacting with wild cetaceans.

The MMC sponsored a literature review by Samuels et al. (2000) to compile information regarding human interactions with marine mammals in the wild. Upon review of the report, the MMC stated:

''The information and analyses in the report provide compelling evidence that any efforts to interact intentionally with dolphins in the wild are likely to result in at least Level B harassment and, in some cases, could result in the death or injury of both people and marine mammals.''

The MMC therefore recommended to NMFS that it ''*promulgate regulations specifying that any activity intended to enable in-water interactions between humans and dolphins in the wild constitutes a taking and is prohibited*'' (Letter from MMC to NMFS dated May 23, 2000). Based on both the scientific evidence and the legal framework of the MMPA, NMFS believes that these concerns apply equally to all species of whales, dolphins, porpoises, seals and sea lions.

On August 3, 1992, NMFS published proposed regulations (57 FR 34101) to provide greater protection for marine mammals by specifying, among other actions, minimum distances that people, vessels, and aircraft should maintain from these animals to avoid harming them. NMFS withdrew the proposed regulations on March 29, 1993 (58 FR 16519) to further evaluate the comments received and to consider alternatives for addressing the problem of close approach of marine mammals by vessels/persons. Since then, NMFS has continued to monitor the growing body of scientific evidence regarding the impacts of human activities directed at marine mammals in the wild, and NMFS has routinely received letters of concern from researchers, wildlife protection groups and private citizens regarding human interactions with wild marine mammals. As a result, NMFS has concluded that development of a proposed rule to prevent harassment from human activities directed at marine mammals in the wild may be warranted.

Request for Comments

NMFS is requesting comments on what type of regulations and other measures would be appropriate to prevent harassment from human activities directed at marine mammals in the wild. NMFS offers several possible options for consideration and comment, and recognizes that other possibilities may exist including a combination of the following:

Codify the current NMFS Regional marine mammal viewing guidelines – Codifying the guidelines as regulations would make them requirements rather than recommendations, and would provide for enforcement of these provisions and penalties for violations.

Codify the current marine mammal viewing guidelines with improvements – The current guidelines could be revised to more clearly address specific activities of concern, and then codified as enforceable regulations.

Establish minimum approach rule – Similar to the minimum approach rules for humpback whales in Hawaii and Alaska, and right whales in the North Atlantic (50 CFR 224.103; 66 FR 29502, May 31, 2001), a limit could be established by regulation to accommodate a reasonable level of wildlife viewing opportunity while minimizing harassment from human activities directed at marine mammals in the wild. If establishing a minimum approach rule is appropriate, then NMFS would have to consider whether or not distances should be specific to particular species and/or Regions, and whether or not distances should be consistent between vessel platforms and from land. NMFS would consider exceptions for situations in which marine mammals approach vessels or humans as well as other situations in which approach is not reasonably avoidable.

Restrict activities of concern - Similar to the prohibition on feeding wild marine mammals, a regulation amending the definition of ''take'' and/or ''harassment'' could clarify which specific activities are prohibited, e.g., interacting or attempting to interact with a marine mammal in the wild. Interaction would include swimming with, touching (either directly or with an object), posing with, or otherwise acting on or with a marine mammal. This would include interaction by any means or medium, including interception, on land, on/in the water, or from the air. It would also include operating a vessel or providing other platforms from which interactions are conducted or supported.

Dated: January 24, 2002.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

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Proposed Rules

Federal Register
Vol. 67, No. 20
Wednesday, January 30, 2002

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1500

Exemptions From Classification as Banned Hazardous Substances; Proposed Exemption for Certain Model Rocket Propellant Devices for Use With Lightweight Surface Vehicles

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed rule.

SUMMARY: The Commission is proposing to exempt from the Federal Hazardous Substances Act (''FHSA'') certain model rocket propellant devices for vehicles that travel on the ground. The Commission's current regulations exempt motors used for flyable model rockets. The proposed rule would exempt certain propellant devices for model rocket ground vehicles if they meet requirements similar to those required for flyable model rockets.

DATES: The Office of the Secretary must receive comments by April 15, 2002.

ADDRESSES: Comments, preferably in five copies, should be mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207, telephone (301) 504–0800, or delivered to the Office of the Secretary, Room 501, 4330 East-West Highway, Bethesda, Maryland 20814. Comments may also be filed by telefacsimile to (301) 504–0127 or by email to cpsc-os@cpsc.gov. Comments should be captioned ''Proposed exemption for model rocket propellant devices for surface vehicles.''

FOR FURTHER INFORMATION CONTACT: Terrance Karels, Directorate for Economic Analysis, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–0962, ext. 1320.

SUPPLEMENTARY INFORMATION:

A. Background

Section 2(q)(1)(A) of the FHSA bans toys containing hazardous substances that are accessible to a child. 15 U.S.C. 1261(q)(1)(A). However, the FHSA authorizes the Commission, by regulation, to grant exemptions from classifications as banned hazardous substances for:

> articles, such as chemistry sets, which by reason of their functional purpose require the inclusion of the hazardous substance involved, or necessarily present an electrical, mechanical, or thermal hazard, and which bear labeling giving adequate directions and warnings for safe use and are intended for use by children who have attained sufficient maturity, and may reasonably be expected to read and heed such directions and warnings.

15 U.S.C. 1261(q)(1)(A). Thus,the Commission may issue an exemption if it finds that the product requires inclusion of a hazardous substance in order for it to function, has sufficient directions and warnings, and is intended for children who are old enough to read and follow the directions and warnings. *Id.* The Food and Drug Administration, which administered the FHSA before the Commission was established, issued a rule under this authority that exempted from the definition of banned hazardous substances model rocket propellant devices (motors) designed for use in light-weight, recoverable, and reflyable model rockets, if they meet certain requirements. 16 CFR 1500.85(a)(8).

B. The Petition

The Commission received a petition from Centuri Corporation requesting that the Commission issue a rule exempting certain model rocket propellant devices to be used for model rocket surface vehicles. The petitioner requested an exemption for race cars that travel on the ground along a tethered line and are propelled in a manner similar to rockets. The petitioner requested an exemption that would allow the sale of both of its two prototype model rocket cars. The smaller car, named ''Blurzz,'' uses an ''A'' motor, and is shaped like a ''rail,'' a type of custom-made vehicle used in competitive drag racing. The larger prototype, named ''Screamin'' Eagle,'' uses a ''D'' motor, and is shaped like a ''Bonnevile Speed Record'' custom vehicle. The Commission has decided to grant the petition in part and propose an exemption for model rocket propellant devices to be used for surface vehicles like the smaller ''Blurzz'' car only.[1]

C. The Proposed Exemption

Both the Blurzz and Screamin' Eagle rocket-powered cars are designed to be operated along a tethered line. When operated along the tether, the paths of the cars are guided. A user who wishes to operate either car without the tether must physically cut the tether and remove the engine mount from it. The Commission recognizes that some users of the Screamin' Eagle and the Blurzz rocket-powered cars may operate them without the use of the tether. In such a case the path of the cars will be unguided. The Commission staff conducted limited tests of both the Screamin'' Eagle and the Blurzz without the tether and videotaped the results. The Commissioners had the opportunity to view the videotapes and to consult with both Commission staff and with the senior management of Centuri about the behavioral characteristics of the cars when they were operated without the tether.

In the case of the Screamin' Eagle, the videotapes demonstrated clearly that the car can rise to a significant height and that it travels at a high rate of speed for a considerable distance before falling to earth or encountering an obstacle. The Screamin' Eagle is also relatively heavy. There is, therefore, a significant risk of injury to any person downrange from the Screamin' Eagle when it is used in the absence of the tether. The Commission, therefore, denied the petition insofar as it seeks an exemption from the FHSA for model rocket propellant devices for cars like the Screamin' Eagle.

In the case of the Blurzz, however, senior management of Centuri represented in a meeting with Commissioner Gall, her staff, and staff from the office of Commissioner Moore on October 26, 2001 that the Blurzz failed in a ''safe'' mode. By this expression, Centuri management meant that when the rocket motor was ignited in the Blurzz in the absence of the tether, its normal behavior was to flip over onto its back and skitter about the ground, a behavior that posed little or

[1] The Commission voted 2–1 to grant the petition with regard to the smaller vehicles and deny it regarding the larger ones. Commissioners Thomas Moore and Mary Sheila Gall voted to take this action, while Chairman Ann Brown voted to deny the entire petition.

no risk. The Commissioners' observation of the staff-prepared videotapes of rocket car testing, and additional consultation with Commission staff confirmed this representation of Centuri management. When ignited without the tether the Blurzz car ordinarily simply flipped onto its back and skittered around on the ground. Even when the Blurzz did not flip immediately onto its back, it traveled downrange only a very limited distance, and rose only a few inches in the air, before flipping onto its back. The petitioner asserts that the experience of trying to operate the Blurzz without the tether results in little user satisfaction, meaning that users are unlikely to continue the practice. Moreover, the rocket motor used in the Blurzz is of limited thrust, and the vehicle and the rocket motor combined are very light. Even if a person were downrange from the Blurzz in the absence of the tether, the Blurzz would strike only a light blow a few inches above the ground.

On the basis of its meeting with Centuri management, and its observation of the videotapes of the testing of the Blurzz, the Commission finds that there is a reasonable probability that model rocket propellant devices for surface vehicles like the Blurzz present no unreasonable risk of injury even when operated in reasonably foreseeable misuse without the tether. The Commission, therefore, proposes to exempt model rocket propellant devices for surface vehicles like the Blurzz from the ban that would otherwise be imposed by the FHSA.

In order to grant an exemption from the ban that would ordinarily be imposed by the FHSA, the Commission must find that the labeling that accompanies model rocket propellant devices for surface vehicles like the Blurzz gives adequate directions and warnings for safe use. The Commission must also find that the product is intended for use by children who have attained sufficient maturity and that those children may reasonably be expected to read and heed the directions and warnings. The Blurzz is intended for use by children aged 12 and above. The Commission finds that those children interested in model rockets and rocket vehicles such as the Blurzz are of sufficient maturity that they may reasonably be expected to read and heed the directions for use and warnings that accompany model rocket surface vehicles like the Blurzz. The Commission finds further that those directions and warnings are adequate to guide users in the safe use of the product.

D. Impact on Small Business

The staff preliminarily assessed the impact that a rule to exempt model rocket propellant devices for use with surface vehicles like the ''Blurzz'' might have on small businesses. Because the proposed exemption would relieve manufacturers from existing restrictions, the staff expects that the exemption would impose no additional costs to businesses of any size. Rather, it would allow companies to manufacture and market a product currently prohibited under the FHSA.

Based on this assessment, the Commission preliminarily concludes that the proposed amendment exempting model rocket propellant devices for surface vehicles like the ''Blurzz'' would not have a significant impact on a substantial number of small businesses or other small entities.

E. Environmental Considerations

Pursuant to the National Environmental Policy Act, and in accordance with the Council on Environmental Quality regulations and CPSC procedures for environmental review, the Commission has assessed the possible environmental effects associated with the proposed exemption.

The Commission's regulations state that rules issuing or amending safety standards for consumer products normally have little or no potential for affecting the human environment. 16 CFR 1021.5(c)(1). Nothing in this proposed rule alters that expectation. Therefore, because the rule would have no adverse effect on the environment, neither an environmental assessment nor an environmental impact statement is required.

F. Executive Orders

According to Executive Order 12988 (February 5, 1996), agencies must state in clear language the preemptive effect, if any, of new regulations.

The FHSA provides that, generally, if the Commission issues a rule under section 2(q) of the FHSA to protect against a risk of illness or injury associated with a hazardous substance,''no State or political subdivision of a State may establish or continue in effect a requirement applicable to such substance and designed to protect against the same risk of illness or injury unless such requirement is identical to the requirement established under such regulations.'' 15 U.S.C. 1261n(b)(1)(B). (The FHSA also provides for the state or political subdivision of a state to apply for an exemption from preemption if certain requirements are met.) Thus, the proposed rule exempting model rocket propellant devices for use with certain surface vehicles would preempt non-identical requirements for such propellant devices.

The Commission has also evaluated the proposed rule in light of the principles stated in Executive Order 13132 concerning federalism, even though that Order does not apply to independent regulatory agencies such as CPSC. The Commission does not expect that the proposed rule will have any substantial direct effects on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among various levels of government.

List of Subjects in 16 CFR Part 1500

Consumer protection, Hazardous materials, Hazardous substances, Imports, Infants and children, Labeling, Law enforcement, and Toys.

Conclusion

For the reasons stated above, the Commission preliminarily concludes that, with the requirements stated in the proposed exemption, model rocket propellant devices to propel lightweight surface vehicles like the Blurzz require inclusion of a hazardous substance in order to function, have sufficient directions and warnings for safe use, and are intended for children who are mature enough that they may reasonably be expected to read and head the directions and warnings. Therefore, the Commission proposes to amend title 16, chapter II of the Code of Federal Regulations as follows:

PART 1500—HAZARDOUS SUBSTANCES AND ARTICLES: ADMINISTRATION AND ENFORCEMENT REGULATIONS

1. The authority for part 1500 continues to read as follows:

Authority: 15 U.S.C. 1261–1278.

2. Section 1500.85 is amended by adding a new paragraph (a)(14) to read as follows:

§ 1500.85 Exemptions from classification as banned hazardous substances.

(a) * * *

(14) Model rocket propellant devices (model rocket motors) designed to propel lightweight surface vehicles such as model rocket cars, provided—

(i) Such devices:

(A) Are designed to be ignited electrically and are intended to be operated from a minimum distance of 15 feet (4.6 m) away;

(B) Contain no more than 4 g. of propellant material and produce no more than 2.5 Newton-seconds of total impulse with a thrust duration not less than 0.050 seconds;

(C) Are constructed such that all the chemical ingredients are pre-loaded into a cylindrical paper or similarly constructed non-metallic tube that will not fragment into sharp, hard pieces;

(D) Are designed so that they will not burst under normal conditions of use, are incapable of spontaneous ignition, and do not contain any type of explosive or pyrotechnic material other than a delay and small recovery system activation charge;

(E) Bear labeling, including labeling that the devices are intended for use by persons age 12 and older, and include instructions providing adequate warnings and instructions for safe use; and

(F) Comply with the requirements of 16 CFR 1500.83(a)(36)(i) through (iii); and

(ii) The surface vehicles intended for use with such devices:

(A) Are lightweight, weighing no more than 3.0 oz. (85 grams), and constructed mainly of materials such as balsa wood or plastics that will not fragment into sharp, hard pieces;

(B) Are designed to utilize a braking system such as a parachute or shock absorbing stopping mechanism;

(C) Are designed so that they cannot accept propellant devices measuring larger than 0.5″ (13 mm) in diameter and 1.75″ (44 mm) in length;

(D) Are designed so that the engine mount is permanently attached by the manufacturer to a track or track line that controls the vehicle's direction for the duration of its movement;

(E) Are not designed to carry any type of explosive or pyrotechnic material other than the model rocket motor used for primary propulsion; and

(F) Bear labeling and include instructions providing adequate warnings and instructions for safe use.

* * * * *

3. Section 1500.83(a)(36)(i) is revised to read as follows:

§ 1500.83 Exemptions for small packages, minor hazards, and special circumstances.

(a) * * *

(36) * * *

(i) The devices are designed and constructed in accordance with the specifications in § 1500.85(a)(8), (9) or (14);

* * * * *

Dated: January 22, 2002.

Todd Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 02–2059 Filed 1–29–02; 8:45 am]

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DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

RIN 0720–AA69

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Voluntary Disenrollment From the TRICARE Retiree Dental Program (TRDP)

AGENCY: Office of the Secretary, DoD.

ACTION: Proposed rule.

SUMMARY: This proposed rule implements section 726 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, which amended 10 U.S.C. 1076c to allow for voluntary disenrollment from the TRICARE Retiree Dental Program in certain circumstances.

DATES: Comments must be received on or before April 1, 2002.

ADDRESSES: TRICARE Management Activity (TMA), Special Contracts and Operations Office, 16401 East Centretech Parkway, Aurora, CO 80011–9043.

FOR FURTHER INFORMATION CONTACT: Linda Winter, Special Contracts and Operations Office, TMA, (303) 676–3682.

SUPPLEMENTARY INFORMATION:

I. Background

The TRICARE Retiree Dental Program (TRDP), a voluntary dental insurance plan completely funded by enrollees' premiums, was implemented in 1998 based on the authority of 10 U.S.C. 1076c. The enabling legislation specifies that the Secretary of Defense shall prescribe a minimum required period for enrollment and allows enrollment to be terminated only for loss of eligibility and failure to pay premiums. There was no provision for enrollees to voluntarily terminate their enrollment before the enrollment commitment was fulfilled. Accordingly, the implementing regulation, 32 CFR 199.22, allows termination of enrollment during the required enrollment period only for the ineligibility and premium default reasons.

In section 726 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, Public Law 106–398, Congress responded to concerns that the enabling legislation was too restrictive by not allowing enrollees to voluntarily terminate their enrollment before the completion of their enrollment commitment when continued enrollment would be of no benefit to them. Section 726 amended 10 U.S.C. 1076c to direct the Secretary of Defense to allow an enrollee to disenroll at the beginning of the prescribed enrollment period and to permit disenrollment thereafter under limited circumstances providing that the fiscal integrity of the dental program is not jeopardized. The amendment specifies the inclusion of the following circumstances: assignment of Federal employment outside the dental plan jurisdiction that prevents utilization of the plan's benefits, a serious medical condition that prevents utilization of the plan's benefits, and severe financial hardship. In addition, the amendment requires a process for appealing adverse decisions to OCHAMPUS.

II. Provisions to the Proposed Rule.

This proposed rule expands the voluntary termination provision originally published in an interim final rule in the **Federal Register** on August 14, 2000 (65 FR 49491). Under the statutory mandate for voluntary enrollment, that provision implemented a grace period in which a new enrollee could voluntarily disenroll during the first thirty days following the beginning date of coverage on the condition that no benefits had been used and effectively nullify the enrollment. It also designated the TRDP contractor as the authority for grace period disenrollment decisions.

This proposed rule establishes another opportunity for voluntary disenrollment that is based on the extenuating circumstances specified in the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001. The TRDP contractor continues as the authority for voluntary disenrollment decisions but only at the initial level. The rule establishes a process for enrollees to appeal to OCHAMPUS all adverse decisions made by the contractor in response to requests for voluntary disenrollment.

In addition, the proposed rule makes the following administrative changes: Corrects a typographical error in a reference to the Assistant Secretary of Defense (Health Affairs); replaces references to the TRICARE Active Duty Dependents Dental Plan with the name of its successor, the TRICARE Dental Program; removes the forwarding of grievances to OCHAMPUS for final

review; and replaces the reference to the appeals process for the TRICARE Dental Program at section 199.13(h) with a reference to the OCHAMPUS appeals process as section 199.10 as governing for the TRDP.

III. Rulemaking Procedures

Executive Order 12866 requires certain regulatory assessments for any ''significant regulatory action,'' defined as one that would result in an annual effect on the economy of $100 million or more, or have other substantial impacts. The Regulatory Flexibility Act requires that each federal agency prepare, and make available for public comment, a regulatory flexibility analysis when the agency issues a regulation that would have a significant impact on a substantial number of small entities. This rule has been designated as significant and has been reviewed by the Office of Management and Budget as required under the provisions of E.O. 12866.

Furthermore, pursuant to section 605 of the Regulatory Flexibility Act (5 U.S.C. 605), we hereby certify that this rule will not have a significant economic impact on a substantial number of small entities. This rule affects only the manner in which enrollment in the TRICARE Retiree Dental Program is administered. This rule will impact only enrollees in that program and the contractor responsible for administering the program.

This rule will not impose additional information collection requirements on the public under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

List of Subjects in 32 CFR Part 199

Claims, Dental health, Health insurance, Individuals with disabilities, Military personnel.

Accordingly, 32 CFR 199 is proposed to be amended as follows:

PART 199—[AMENDED]

1. The authority citation for Part 199 continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. chapter 55.

2. Section 199.22 is proposed to be amended by revising paragraphs (b)(4) and (c), the first two sentences of paragraph (d)(1)(iv) introductory text, and paragraphs (d)(1)(v), (d)(4)(ii), (d)(5)(ii), (e)(2) and (k) to read as follows.

§ 199.22 TRICARE Retiree Dental Program (TRDP).

* * * * *

(b) * * *

(4) Except as otherwise provided in this section or by the Assistant Secretary of Defense (Health Affairs) or designee, the TRDP is administered in a manner similar to the TRICARE Dental Program under § 199.13.

* * * * *

(c) *Definitions.* Except as may be specifically provided in this section, to the extent terms defined in § 199.2 and 199.13(b) are relevant to the administration of the TRICARE Retiree Dental Program, the definitions contained in §§ 199.2 and 199.13(b) shall apply to the TRDP as they do to CHAMPUS and the TRICARE Dental Program.

(d) * * *

(1) * * *

(iv) Eligible dependents of a member described in paragraph (d)(1)(i) or paragraph (d)(1)(ii) of this section when the member is not enrolled in the program and the member meets at least one of the conditions in paragraphs (d)(1)(iv)(A) through (C) of this section. Already enrolled members must satisfy any remaining enrollment commitment prior to enrollment of dependents becoming effective under this paragraph, at which time the dependent-only enrollment will continue on a voluntary basis as specified in paragraph (d)(4) of this section. * * *

(v) The unremarried surviving spouse and eligible child dependents of a deceased member who died while in status described in paragraphs (d)(1)(i) or (d)(1)(ii) of this section; the unremarried surviving spouse and eligible child dependents who receive a surviving spouse annuity; or the unremarried surviving spouse and eligible child dependents of a deceased member who died while on active duty for a period of more than 30 days and whose eligible dependents are not eligible or no longer eligible for the TRICARE Dental Program.

* * * * *

(4) * * *

(ii) *Enrollment period for enhanced benefits.* The initial enrollment period for enhanced benefit coverage described in paragraph (f)(2) of this section shall be established by the Director, OCHAMPUS, or designee, when such coverage is offered, to be a period of not less than 12 months and not more than 24 months. The initial enrollment period shall be followed by renewal periods of up to 12 months as long as the enrollee chooses to continue enrollment and remains eligible. An enrollee who chooses not to continue enrollment upon completion of an enrollment period may re-enroll at any time. However, an enrollee who is disenrolled from the TRDP before completion of an initial or subsequent enrollment period for reason other than those in paragraphs (d)(5)(ii)(A) and (B) of this section shall incur a lockout period of 12 months before re-enrollment can occur. Former enrollees who re-enroll following a lockout period or following a period of disenrollment after completion of an enrollment period must comply with all provisions that apply to new enrollees, including a new enrollment commitment.

(5) * * *

(ii) *Voluntary termination.* All enrollee requests for termination of TRDP coverage before the completion of an enrollment period shall be submitted to the TRDP contractor for determination of whether the enrollee qualifies to be disenrolled under paragraphs (d)(5)(ii)(A) or (B) of this section.

(A) *Enrollment grace period.* Regardless of the reason, TRDP coverage shall be cancelled, or otherwise terminated, upon request from an enrollee if the request is received by the TRDP contractor within thirty (30) calendar days following the enrollment effective date and there has been no use of TRDP benefits under the enrollment during that period. If such is the case, the enrollment is voided and all premium payments are refunded. However, use of benefits during this 30-day enrollment grace period constitutes acceptance by the enrollee of the enrollment and the enrollment period commitment. In this case, a request for termination of enrollment under paragraph (d)(5)(ii)(A) of this section will not be honored, and premiums will not be refunded.

(B) *Extenuating circumstances.* Under limited circumstances, TRDP enrollees shall be disenrolled by the contractor before the completion of an enrollment period commitment upon request by an enrollee if the enrollee submits written, factual documentation that independently verifies that one of the following extenuating circumstances occurred during the enrollment period. In general, the circumstances must be unforeseen and long-term and must have originated after the effective date of TRDP coverage.

(*1*) The enrollee is a Federal employee who has received an assignment to a location outside the jurisdiction of the TRDP that prevents utilization of TRDP benefits,

(*2*) The enrollee is prevented by a serious medical condition from being able to utilize TRDP benefits, or

(*3*) The enrollee would suffer severe financial hardship by continuing TRDP enrollment.

(C) *Effective date of voluntary termination.* For cases determined to qualify for disenrollment under the grace period provisions in paragraph (d)(5)(ii)(A) of this section, enrollment is completely nullified effective from the beginning date of coverage. For cases determined to qualify for disenrollment under the extenuating circumstances provisions in paragraph (d)(5)(ii)(B) of this section, the effective date of disenrollment is the first of the month following the contractor's initial determination on the disenrollment request or the first of the month following the last use of TRDP benefits under the enrollment, whichever is later.

(D) *Appeal process for denied voluntary enrollment termination.* An enrollee has the right to appeal to OCHAMPUS the contractor's determination that a disenrollment request does not qualify under paragraphs (d)(5)(ii)(A) or (B) of this section. The enrollee may appeal that determination by submitting a written request to OCHAMPUS with a copy of the contractor's determination notice and relevant documentation supporting the disenrollment request. This appeal must be received by OCHAMPUS within 60 days of the date of the contractor's determination notice. The burden of proof is on the enrollee to establish affirmatively by substantial evidence that the enrollee qualifies to be disenrolled under paragraphs (d)(5)(ii)(A) or (B) of this section. OCHAMPUS will issue written notification to the enrollee and the contractor of its appeal determination within 60 days from the date of receipt of the appeal request. The decision of OCHAMPUS is final.

* * * * *

(e) * * *

(2) *Effects of failure to make premium payments.* Failure to make premium payments will result in the enrollee's disenrollment from the TRDP and a lock-out period of 12 months. Following this period of time, eligible individuals will be able to re-enroll if they so choose.

* * * * *

(k) *Appeal procedures.* All levels of appeal established by the contractor shall be exhausted prior to an appeal being filed with OCHAMPUS. Procedures comparable to those established for appeal of benefit determinations under § 199.10 shall apply together with the procedures for appeal of voluntary disenrollment determinations described in paragraph (d)(5)(ii)(D) of this section.

* * * * *

Dated: January 24, 2002.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 02–2173 Filed 1–29–02; 8:45 am]

BILLING CODE 5001–08–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD–FRL–7136–2]

Amendments to Standards of Performance for New Stationary Sources; Monitoring Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; notice of public hearing and reopening of comment period.

SUMMARY: This document announces an informal public hearing EPA is holding to take comments on the Agency's proposed rule for Performance Specification 11 (PS–11): Specifications and Test Procedures for Particulate Matter Continuous Emission Monitoring Systems at Stationary Sources and Procedure 2: Quality Assurance Requirements for Particulate Matter Continuous Monitoring Systems at Stationary Sources (Procedure 2), published on December 12, 2001. The comment period for the above-named action is also being reopened for an additional 60-days.

DATES: *Public Hearing.* The public hearing will be held on Friday, February 22, 2002, from 9:30 a.m. to 4 p.m. (EST). The hearing may conclude prior to 4 p.m., depending on the number of attendees and level of interest. If you are interested in attending the hearing, you must call the contact person listed below (see **FOR FURTHER INFORMATION CONTACT**).

Comments. You must submit comments so that they are received on or before March 12, 2002.

Request to Speak at Hearing. If you wish to present oral testimony at the public hearing, you must call the contact person listed below.

ADDRESSES: *Public Hearing:* The location for this public hearing will be the Environmental Research Center Auditorium, Research Commons, 86 T.W. Alexander Drive, Research Triangle Park, NC 27711.

Comments: You may submit your comments by electronic mail (e-mail) to: *a-and-r-docket@epa.gov* and *bivins.dan@epa.gov.* You must submit e-mail comments either as an ASCII file avoiding the use of special characters and any form of encryption or as an attachment in WordPerfect ® version 5.1, 6.1 or Corel 8 file format. You must note the docket number: (A–2001–10) on all comments and data submitted in electronic form. Do not submit confidential business information (CBI) by e-mail. Electronic comments may be filed online at many Federal Depository Libraries.

Worldwide Web (WWW). In addition to being available in the docket, you can find an electronic copy of the December 12 proposal on the WWW through the Technology Transfer Network (TTN). A copy of the proposal has been posted on the Emission Measurement Center's TTN web site at *http://www.epa.gov/ttn/emc* under Monitoring. We are only accepting comment on the items in that proposal, including supplemental comments or comments in rebuttal to information received at the public hearing. The TTN provides information and technology exchange in various areas of air pollution control. If you need more information regarding the TTN, call the TTN HELP line at (919) 541–5384.

FOR FURTHER INFORMATION CONTACT: For information concerning the hearing or the December 12 proposal, contact Mr. Daniel G. Bivins, Emission Measurement Center (D–220D), Emissions, Monitoring, and Analysis Division, U. S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5244.

SUPPLEMENTARY INFORMATION: EPA published its proposed rule for PS–11 and Procedure 2 in the **Federal Register** on December 12, 2001 (66 FR 64176–64207). In that notice EPA proposes to revise portions of a previously proposed rule concerning particulate matter continuous emission monitoring to respond to comments received on that previous proposal and to reflect relevant new information obtained subsequent to that proposal. In the December 12 notice, EPA provided a 30-day public comment period on the supplemental proposal (ending January 11, 2002), and also indicated that a public hearing would be held if requested by any member of the public and that if a hearing is held, rebuttal and supplementary information may be submitted to the docket for 30 days following the hearing.

EPA received six comments requesting a public hearing and also requesting that the 30-day public

comment period be extended for an additional 60 days. Since EPA now intends to hold a hearing and to accept comments until March 12, we believe that this 60-day reopening of the comment period is sufficient to enable interested members of the public to further evaluate the proposed rule as well as any comments received at the public hearing.

The proposed rule is available electronically on the Internet at the web address shown above. The proposed rule and supporting materials are also available for viewing in the Air and Radiation Docket and Information Center, located at 1200 Pennsylvania Avenue, NW., (Ariel Rios Building), 2nd Floor, Room 2213, Washington, DC 20460. The documents are available for viewing from 9 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays. To review docket materials, it is recommended that the public make an appointment by calling (202) 564–2614 or (202) 564–2119.

Dated: January 25, 2002.

Robert D. Brenner,

Principal Deputy Assistant Administrator, Office of Air and Radiation.

[FR Doc. 02–2232 Filed 1–29–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[MD001–1000; FRL–7136–1]

Approval of Section 112(l) Authority for Hazardous Air Pollutants; State of Maryland; Department of the Environment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve Maryland Department of the Environment's (MDE's) request for delegation of authority to implement and enforce its hazardous air pollutant regulations for perchloroethylene dry-cleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning, secondary lead smelting, hazardous waste combustors, and portland cement manufacturing which have been adopted by reference from the Federal requirements set forth in the Code of Federal Regulations. This proposed approval will automatically delegate future amendments to these regulations once MDE incorporates these amendments into its regulations. In addition, EPA is proposing to approve of MDE's mechanism for receiving delegation of future hazardous air pollutant regulations. This mechanism entails MDE's incorporation by reference of the unchanged Federal standard into its hazardous air pollutant regulation and MDE's notification to EPA of such incorporation. This action pertains only to affected sources, as defined by the Clean Air Act hazardous air pollutant program, which are not located at major sources, as defined by the Clean Air Act operating permit program. In the Final Rules section of this **Federal Register**, EPA is approving the State's request for delegation of authority as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Written comments must be received on or before March 1, 2002.

ADDRESSES: Written comments on this action should be sent concurrently to: Makeba A. Morris, Chief, Permits and Technical Assessment Branch, Mail Code 3AP11, Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103–2029, and Anne Marie DeBiase, Director, Air and Radiation Management Administration, Maryland Department of the Environment, 2500 Broening Highway, Baltimore, MD 21224. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103 and the Maryland Department of the Environment, 2500 Broening Highway, Baltimore, MD 21224.

FOR FURTHER INFORMATION CONTACT: Dianne J. McNally, 215–814–3297, at the EPA Region III address above, or by e-mail at *mcnally.dianne@epa.gov.* Please note that any formal comments must be submitted, in writing, as provided in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION: For further information on this action, pertaining to approval of MDE's delegation of authority for the hazardous air pollutant emission standards for perchloroethylene dry-cleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning, secondary lead smelting, hazardous waste combustors, and portland cement manufacturing (Clean Air Act section 112), please see the information provided in the direct final action, with the same title, that is located in the ''Rules and Regulations'' section of this **Federal Register** publication.

Dated: January 22, 2002.

Judith M. Katz,

Director, Air Protection Division,Region III.

[FR Doc. 02–2231 Filed 1–29–02; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 63

[PA001–1002; FRL–7135–4]

Approval of Section 112(l) Authority for Hazardous Air Pollutants and the Chemical Accident Prevention Provisions; Allegheny County; Health Department

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve Allegheny County Health Department's (ACHD's) request for delegation of authority to implement and enforce its hazardous air pollutant and accidental release prevention regulations which have been adopted by reference from the Federal requirements set forth in the Code of Federal Regulations. This proposed approval will automatically delegate future amendments to these regulations. For sources which are required to obtain a Clean Air Act operating permit, this proposed delegation addresses all existing hazardous air pollutant regulations. For sources which are not required to obtain a Clean Air Act operating permit, this proposed delegation presently addresses the hazardous air pollutant regulations for perchloroethylene drycleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning, secondary lead smelting, hazardous waste combustors, portland cement manufacturing, and

secondary aluminum smelting. This proposed delegation addresses all sources subject to the accidental release prevention regulations. In addition, EPA is proposing to automatically delegate all future hazardous air pollutant regulations which ACHD adopts unchanged from the Federal requirements. EPA is not waiving its notification and reporting requirements under this proposed approval; therefore, sources will need to send notifications and reports to both ACHD and EPA. This action pertains to affected sources, as defined by the Clean Air Act's hazardous air pollutant program, and covered processes, as defined by the Clean Air Act's chemical accident prevention provisions. EPA is taking this action in accordance with the Clean Air Act. In the Final Rules section of this **Federal Register**, EPA is approving ACHD's request for delegation of authority as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Written comments must be received on or before March 1, 2002.

ADDRESSES: Written comments on this action should be sent concurrently to: Makeba A. Morris, Chief, Permits and Technical Assessment Branch, Mail Code 3AP11, Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103–2029, and Roger C. Westman, Manager, Air Quality Program, Allegheny County Health Department, 301 39th Street, Pittsburgh, PA 15201–8103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103 and Allegheny County Health Department, 301 39th Street, Pittsburgh, PA 15201–8103.

FOR FURTHER INFORMATION CONTACT: Dianne J. McNally, 215–814–3297, at the EPA Region III address above, or by e-mail at *mcnally.dianne@epa.gov.* Please note that any formal comments must be submitted, in writing, as provided in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION: For further information on this action, pertaining to approval of ACHD's delegation of authority for all hazardous air pollutant emission standards, as they apply to facilities required to obtain a Clean Air Act operating permit; the hazardous air pollutant emission standards for perchloroethylene drycleaning facilities, hard and decorative chromium electroplating and chromium anodizing tanks, ethylene oxide sterilization facilities, halogenated solvent cleaning, secondary lead smelting, hazardous waste combustors, portland cement manufacturing, and secondary aluminum smelting, as they apply to facilities not required to obtain a Clean Air Act operating permit; and, the chemical accident prevention provisions, as they apply to all facilities (Clean Air Act section 112), please see the information provided in the direct final action, with the same title, that is located in the ''Rules and Regulations'' section of this **Federal Register** publication.

Dated: January 22, 2002.

Judith M. Katz,

Director, Air Protection Division, Region III.

[FR Doc. 02–2229 Filed 1–29–02; 8:45 am]

BILLING CODE 6560–50–U

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 533

[Docket No. NHTSA–2001–11048]

RIN 2127–AI68

Light Truck Average Fuel Economy Standard, Model Year 2004

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Proposed rule; correction.

SUMMARY: This document corrects the preamble to a proposed rule published in the **Federal Register** of January 24, 2002, regarding the Light Truck Average Fuel Economy Standard for the 2004 model year. This correction inserts text that regarding the analysis of the environmental impacts of the proposal that was inadvertently omitted from the preamble.

FOR FURTHER INFORMATION CONTACT: Otto Matheke, Office of the Chief Counsel, NHTSA, at 202–366–5263.

Correction

In proposed rule, FR Doc. 02–1675, beginning on page 3472 in the issue of January 24, 2002, make the following correction in the Impact Analyses section. On page 3472 in the second column, add the following correction below the Environmental Impacts heading:

''We have not conducted an evaluation of the impacts of this proposal under the National Environmental Policy Act. NHTSA is proposing to set the 2004 model year light truck CAFE standard at the same level as the standard applicable to the 1999 through 2003 model years. As this proposal maintains the fuel economy standard at the same level as prior years, it does not impose any environmental impacts. Accordingly, no environmental assessment is required.''

Dated: January 25, 2002.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 02–2268 Filed 1–28–02; 10:38 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 020103001–2001–01;I.D. 122001B]

RIN: 0648–AN43

Preventing Harassment From Human Activities Directed at Marine Mammals in the Wild

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: NMFS is considering whether to propose regulations to protect marine mammals in the wild from human activities that are directed at the animals and that have the potential to harass the animals. The scope of this advance notice of proposed rulemaking (ANPR) encompasses any activity of any person or conveyance engaged in direct interactions with marine mammals in the wild. NMFS requests comments on what type of regulations and other measures would be appropriate to prevent harassment of marine mammals in the wild caused by human activities directed at the animals.

DATES: Comments must be received at the appropriate address or fax number (see **ADDRESSES**) no later than April 1, 2002.

ADDRESSES: Comments on this Advance Notice of Proposed Rulemaking (ANPR) should be addressed to Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910, or fax to 301–713–0376.

FOR FURTHER INFORMATION CONTACT: Trevor Spradlin, Office of Protected Resources, 301–713–2289.

SUPPLEMENTARY INFORMATION:

Background

Viewing whales, dolphins, porpoises, seals and sea lions in their natural habitat can be an educational and enriching experience if conducted safely and responsibly. Over the past decade, whale watching activities have grown into a billion dollar ($US) industry involving over 80 countries and territories and over 9 million participants (Hoyt 2001). Increasing numbers of commercial operations are offering close interactions with wild marine mammals, including opportunities to swim with, touch or handle the animals.

As human interactions with wild marine mammals increase, the risk of disturbing or injuring the animals also increases. The following human activities directed at marine mammals in the wild are of particular concern to NMFS:

''Swim-with'' activities: Over the past several years, swimming with wild dolphins has significantly increased in the Southeast U.S. and Hawaii, and is beginning to expand to other U.S. coastal areas and to other species of marine mammals. In the Southeast, swimming with bottlenose dolphins appears to be facilitated by illegal feeding activities, which have been prohibited since 1991 when NMFS amended the definition of ''take'' under 50 CFR 216.3 to include feeding or attempting to feed a marine mammal (56 FR 11693, March, 20, 1991). In Hawaii, where feeding of wild dolphins has not been a concern, swim activities primarily target Hawaiian spinner dolphins and take advantage of the dolphins' use of shallow coves and bays during the day to rest and care for their young. In the Southwest, tour operators are offering opportunities to dive and swim with gray whales, pilot whales, Pacific white-sided dolphins, harbor seals, and sea lions.

Vessel-based interactions: The use of motorized or non-motorized vessels (*e.g.*, outboard or inboard boats, kayaks, canoes, underwater scooters, or other types of water craft) to interact with marine mammals in the wild is also a rapidly growing activity nationwide. For example, NMFS has received complaints from researchers and members of the public that include: (1) operators of motorized vessels driving through groups of dolphins in order to elicit bow-riding behavior (e.g., bottlenose dolphins in the Southeast, spinner dolphins in Hawaii, Dall's porpoise in the Northwest); (2) kayakers and canoers utilizing the quiet nature of their vessels to closely approach and observe or photograph cetaceans and pinnipeds (e.g., killer whales in the Northwest, large whales and pinnipeds in California and the Northeast); (3) whale watchers attempting to touch and pet gray whales in California; (4) people using underwater ''scooters'' to closely approach, pursue and interact with the animals (*e.g.*, dolphins in the Southeast); and (5) operators of personal watercraft tightly circling or crossing through groups of dolphins, often at high speed, to closely approach, pursue and interact with the animals (e.g., dolphins along the mid-Atlantic and Gulf of Mexico).

Land-based interactions: Public interactions with marine mammals on land have increased in recent years. Elephant seals, harbor seals and sea lions in the Southwest, and monk seals in Hawaii, are closely approached by people for the purpose of observing them, posing with them for pictures, touching, petting, poking, throwing objects at them to elicit a reaction, or simply strolling among them.

Researchers monitoring the effects of human disturbance on wild marine mammals report boat strikes, disruption of behaviors and social groups, separation of mothers and young, abandonment of resting areas, and habituation to humans (for some examples, see Kovacs and Innes 1990, Kruse 1991, Janik and Thompson 1996, Wells and Scott 1997, Christie 1998, Samuels and Bejder 1998, Bejder *et al.* 1999, Colborn 1999, Constantine 1999, Cope *et al.* 1999, Mortenson *et al.* 2000, Samuels et al. 2000, Constantine 2001, Lelli and Harris 2001, Nowacek *et al.* 2001).

In addition, there are significant public safety considerations as people have been seriously injured while trying to interact with wild marine mammals. People have been bitten or otherwise injured while trying to closely approach, feed, swim with, pet or interact with wild cetaceans or pinnipeds (Webb 1978, Shane et al. 1993, NMFS 1994, Wilson 1994, Orams *et al.* 1996, Seideman 1997, Christie 1998, Samuels and Bejder 1998, Samuels *et al.* 2000). In one case, a dolphin killed a swimmer who was harassing the animal (Santos 1997). Some marine mammals that have injured people have been labeled as ''nuisance animals,'' and individuals have requested the animals be removed from the wild or euthanized.

The Marine Mammal Protection Act of 1972, 16 U.S.C. 1361 *et seq.* (MMPA), prohibits the ''take'' of marine mammals which includes ''harassment.'' Section 3(13) of the MMPA defines the term ''take'' as ''to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal.'' Section 3(18)(A) of the MMPA defines the term ''harassment'' as ''any act of pursuit, torment, or annoyance which – (i) has the potential to injure a marine mammal or marine mammal stock in the wild, (Level A harassment), or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).''

In addition, NMFS regulations implementing the MMPA specify that the term ''take'' includes: the negligent or intentional operation of an aircraft or vessel, or the doing of any other negligent or intentional act which results in disturbing or molesting a marine mammal; and feeding or attempting to feed a marine mammal in the wild (50 CFR 216.3).

The MMPA does not provide for a permit or other authorization process to view or interact with wild marine mammals, except for specific listed purposes such as scientific research. Therefore, interacting with wild marine mammals should not be attempted, and viewing marine mammals must be conducted in a manner that does not harass the animals. NMFS cannot support, condone, approve or authorize activities that involve closely approaching, interacting or attempting to interact with whales, dolphins, porpoises, seals or sea lions in the wild. This includes attempting to swim with, pet, touch or elicit a reaction from the animals. NMFS believes that such interactions constitute ''harassment'' as defined in the MMPA since they involve acts of pursuit, torment or annoyance that have the potential to injure or disrupt the behavioral patterns of wild marine mammals.

Each of the five NMFS Regions has developed recommended viewing guidelines to educate the general public on how to responsibly view marine

mammals in the wild and avoid harassing them (e.g., minimum approach distances for observing the animals on land or on board a vessel; use binoculars or telephoto lenses to get a good view of the animals; limit observation time to 30 minutes or less). NMFS Regional Wildlife Viewing Guidelines for Marine Mammals are available on line at: http://www.nmfs.noaa.gov/prot_res/MMWatch/MMViewing.html

NMFS recognizes that there are situations where wild marine mammals will approach people on their own accord, either out of curiosity or to ride the bow wave/surf the stern wake of a vessel underway. If wild marine mammals approach a vessel underway, NMFS recommends that the vessel maintain its course and avoid abrupt changes in direction or speed to avoid running over or injuring the animals. Vessels that are stationary should remain still to allow the animals to pass. If wild marine mammals enter an area used by swimmers or divers, NMFS recommends avoiding abrupt movements and moving away. Under no circumstances should people try to feed, touch, pet, ride or chase marine mammals in the wild.

To support these guidelines, NMFS initiated a nationwide education and outreach program and in 1997 expanded its efforts by developing the ''Protect Dolphins'' campaign to address growing concerns about feeding and harassment activities with wild dolphins in the Southeast. In 1998, NMFS further expanded its education and outreach efforts by joining Watchable Wildlife, a consortium of federal and state wildlife agencies and wildlife interest groups that encourages passive viewing of wildlife from a distance for the safety and well-being of both animals and people (Duda 1995, Oberbillig 2000).

The guidelines have relied on voluntary compliance by the public and commercial operators. Although ''takes'' may be prosecuted under the MMPA, the guidelines themselves are not enforceable. After more than a decade of extensive efforts to promote NMFS' educational message and marine mammal viewing guidelines, noncompliance continues. For example, advertisements on the Internet and in local media in Hawaii, California and Florida are promoting activities that clearly contradict the NMFS guidelines and appear to depict harassment of the animals. NMFS has received letters from the Marine Mammal Commission (MMC), members of the scientific research community, environmental groups, the public display community, and members of the general public expressing the view that swimming with and other types of interactions with wild marine mammals have the potential to harass the animals by causing injury or disruption of normal behavior patterns. NMFS has also received inquiries from members of the public and commercial tour operators requesting clarification on NMFS' policy and the MMPA restrictions on closely approaching, swimming with or interacting with wild cetaceans.

The MMC sponsored a literature review by Samuels et al. (2000) to compile information regarding human interactions with marine mammals in the wild. Upon review of the report, the MMC stated:

''The information and analyses in the report provide compelling evidence that any efforts to interact intentionally with dolphins in the wild are likely to result in at least Level B harassment and, in some cases, could result in the death or injury of both people and marine mammals.''

The MMC therefore recommended to NMFS that it ''*promulgate regulations specifying that any activity intended to enable in-water interactions between humans and dolphins in the wild constitutes a taking and is prohibited*'' (Letter from MMC to NMFS dated May 23, 2000). Based on both the scientific evidence and the legal framework of the MMPA, NMFS believes that these concerns apply equally to all species of whales, dolphins, porpoises, seals and sea lions.

On August 3, 1992, NMFS published proposed regulations (57 FR 34101) to provide greater protection for marine mammals by specifying, among other actions, minimum distances that people, vessels, and aircraft should maintain from these animals to avoid harming them. NMFS withdrew the proposed regulations on March 29, 1993 (58 FR 16519) to further evaluate the comments received and to consider alternatives for addressing the problem of close approach of marine mammals by vessels/persons. Since then, NMFS has continued to monitor the growing body of scientific evidence regarding the impacts of human activities directed at marine mammals in the wild, and NMFS has routinely received letters of concern from researchers, wildlife protection groups and private citizens regarding human interactions with wild marine mammals. As a result, NMFS has concluded that development of a proposed rule to prevent harassment from human activities directed at marine mammals in the wild may be warranted.

Request for Comments

NMFS is requesting comments on what type of regulations and other measures would be appropriate to prevent harassment from human activities directed at marine mammals in the wild. NMFS offers several possible options for consideration and comment, and recognizes that other possibilities may exist including a combination of the following:

Codify the current NMFS Regional marine mammal viewing guidelines – Codifying the guidelines as regulations would make them requirements rather than recommendations, and would provide for enforcement of these provisions and penalties for violations.

Codify the current marine mammal viewing guidelines with improvements – The current guidelines could be revised to more clearly address specific activities of concern, and then codified as enforceable regulations.

Establish minimum approach rule – Similar to the minimum approach rules for humpback whales in Hawaii and Alaska, and right whales in the North Atlantic (50 CFR 224.103; 66 FR 29502, May 31, 2001), a limit could be established by regulation to accommodate a reasonable level of wildlife viewing opportunity while minimizing harassment from human activities directed at marine mammals in the wild. If establishing a minimum approach rule is appropriate, then NMFS would have to consider whether or not distances should be specific to particular species and/or Regions, and whether or not distances should be consistent between vessel platforms and from land. NMFS would consider exceptions for situations in which marine mammals approach vessels or humans as well as other situations in which approach is not reasonably avoidable.

Restrict activities of concern - Similar to the prohibition on feeding wild marine mammals, a regulation amending the definition of ''take'' and/or ''harassment'' could clarify which specific activities are prohibited, e.g., interacting or attempting to interact with a marine mammal in the wild. Interaction would include swimming with, touching (either directly or with an object), posing with, or otherwise acting on or with a marine mammal. This would include interaction by any means or medium, including interception, on land, on/in the water, or from the air. It would also include operating a vessel or providing other platforms from which interactions are conducted or supported.

Dated: January 24, 2002.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

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[FR Doc. 02–2259 Filed 1–29–02; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 67, No. 20
Wednesday, January 30, 2002

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notice of Public Information Collections Being Reviewed by the Agency for International Development; Comments Requested

SUMMARY: U.S. Agency for International Development (USAID) is making efforts to reduce the paperwork burden. USAID invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act for 1995. Comments are requested concerning: (a) Whether the proposed or continuing collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: submit comments on or before April 1, 2002.

FOR FURTHER INFORMATION CONTACT: Beverly Johnson, Bureau for Management, Office of Administrative Services, Information and Records Division, U.S. Agency for International Development, Room 2.07–106, RRB, Washington, DC 20523, (202) 712–1365 or via e-mail bjohnson@usaid.gov.

SUPPLEMENTARY INFORMATION:

OMB No: OMB 0412–0552.

Form No.: N/A.

Title: Financial Status Report or Equivalent.

Type of Review: Renewal of Information Collection.

Purpose

In its appropriations act, Congress always requests country level financial expenditure data in order to determine whether funds appropriated to the Agency are being used for their intended purpose and are not used to support activities that are not in the US National Interest. Generally, this has been fairly straightforward for assistance recipients who work specifically in one country, but harder to capture in the cases where recipients operate at a regional scale. Therefore, for each country where USAID spends money, careful review is necessary in order to be able to certify that funds expended do not go into programs where funding is prohibited, restricted or limited. Financial expenditure data by country is used by the agency to meet several reporting requirements for Congress. Country specific financial expenditure data is also used to determine whether the agency is meeting Congressional ceilings and earmarks. In addition, Congressional notification is required for activities in certain countries (Burma, Cambodia, Colombia, Democratic Republic of Congo, etc), as well as activities covering certain subject matter such as activities promoting country participation in the Kyoto Protocol, use of notwithstanding authority for supporting energy programs aimed at reducing greenhouse gas emissions. In each case, Congress requests to know the amount of taxpayer dollars that is expended by the program or in the specific country. USAID currently requires grant and cooperative agreement recipients who work in multiple countries to provide expenditure reports by country. The purpose of this notice is to extend the class deviation to the statute from the Office of Management and Budget in accordance with 22 CFR 226.4. The information is being collected so that USAID can ensure programs do not fund activities in countries where the United States Congress has prohibited or fund programs where Congress has limited the types of activities that may be funded.

Annual Reporting Burden:

Respondents: 80.

Total annual responses: 320.

Total annual hours requested: 800 hours.

Dated: January 24, 2002.

Joanne Paskar,

Chief, Information and Records Division, Office of Administrative Services, Bureau for Management.

[FR Doc. 02–2207 Filed 1–29–02; 8:45 am]

BILLING CODE 6116–01–M

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

January 24, 2002.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 *and* to Department Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–6746.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

National Agricultural Statistics Service

Title: Livestock Survey.

OMB Control Number: 0535–0005.

Summary of Collection: The primary function of the National Agricultural Statistics Service (NASS) is to prepare and issue current official State and national estimates of crop and livestock production. General authority for data collection activities is granted under U.S. Code Title 7, Section 2204. This statute specifies that the ''The Secretary of Agriculture shall procure and preserve all information concerning agriculture which he can obtain * * * by the collection of statistics * * * and shall distribute them among agriculturists''. The Livestock survey is conducted annually to estimate livestock totals at State and county levels. Information from federally and non-federally inspected slaughter plants are used to estimate total red meat production.

Need and Use of the Information: NASS will use a survey to collect information on the number of head slaughtered plus live and dressed weights of beef, veal, pork, lamb, mutton, goats, and equine. Accurate and timely livestock estimates provide USDA and the livestock industry with basic date to project future meat supplies and producer prices. Agricultural economists in both the public and private sectors use this information in economic analyses and research.

Description of Respondents: Business or other for-profit; Farms.

Number of Respondents: 58, 127.

Frequency of Respondents: Reporting: Weekly; Monthly; Annually.

Total Burden Hours: 19,248.

National Agricultural Statistics Service

Title: Mink.

OMB Control Number: 0535–0212.

Summary of Collection: The primary function of the National Agricultural Statistics Service (NASS) is to prepare and issue current official State and national estimates of crop and livestock production. Statistics on mink production are published for the 15 major states that account for 95 percent of the U.S. production. There is no other source for this type of information. General authority for these data collection activities is granted under U.S. Code Title 7, Section 2204.

Need and Use of the Information: NASS collects information on mink pelts produced by color, number of females bred to produce kits the following year, number of mink farms, average marketing price, and the value of pelts produced. The data is disseminated by NASS in the Mink Report and is used by the U.S. Government and other groups.

Description of Respondents: Farms.

Number of Respondents: 370.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 51.

Foreign Agricultural Service

Title: Specialty Sugar Certificates.

OMB Control Number: 0551–0025.

Summary of Collection: Provisions associated with Presidential Proclamation No. 4941 prevented the importation of certain refined sugars used for specialized purposes originating in countries that did not have quota allocations. This led the Secretary of Agriculture to announce a quota system requiring certificates for entering specialty sugar. In order to grant licenses, ensure that imported specialty sugar does not disrupt the current domestic support program, and maintain administrative control over the program, an application with certain specific information must be collected from those who wish to participate in the program established by the regulation. Accordingly, applicants must supply information in 15 CFR 2011.205 to be considered eligible for a certificate.

Need and Use of the Information: Importers are required to supply specific information to the Secretary and the Foreign Agricultural Service, in order to be granted a certificate to import specialty sugar. The information is supplied to U.S. Customs officials in order to certify that the sugar being imported is ''specialty sugar.'' Without the collection of this information the Certifying Authority would not have any basis on which to make a decision on whether a certificate should be granted, and would not have the ability to monitor sugar imports under this program.

Description of Respondents: Business or other for-profits; Individuals or households.

Number of Respondents: 20.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 40.

Farm Service Agency

Title: 7 CFR Part 1427-Regulations Governing CCC Nonrecourse Cotton Loan Programs for 1996 and Subsequent Crops.

OMB Control Number: 0560–0074.

Summary of Collection: Nonrecourse marketing assistance loans for upland and extra long staple (ELS) cotton are authorized by sections 113 through 134 of the Federal Agriculture Improvement and Reform Act of 1996 (the 1996 Act) and the Commodity Credit Corporation (CCC) Charter Act. The loans are implemented by the Farm Service Agency (FSA) under regulations at 7 CFR 1427.1 through 1427.26. Nonrecourse loans for upland cotton may be repaid at a reduced rate, but such loans for ELS cotton are repayable at principal plus interest. Producers requesting CCC cotton loans must provide information to verify eligiblity of themselves and the cotton being offered as loan collateral. FSA will collect information using several forms.

Need and Use of the Information: FSA will collect information to determine loan quantities and principal amounts to administer the program and verify commodity and producer eligibility. Without the information from the producer, CCC could not carry out the statutory loan provisions.

Description of Respondents: Individuals or households; Business or other for-profit.

Number of Respondents: 96,122.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 45,246.

Farm Service Agency

Title: Certification of Livestock Losses for Eligible Disaster.

OMB Control Number: 0560–0179.

Summary of Collection: Under Public Law 106–387, Sec. 813 states ''The Secretary shall use up to $10,000,000 of the funds of the Commodity Credit Corporation to make livestock indemnity payment to producers on a farm that have incurred livestock losses during calendar year 2000 due to a disaster, as determined by the Secretary, including losses due to fires and anthrax. Over the past several years, Congress has provided ad hoc funding under several appropriation bills to partially compensate producers who lost livestock because of natural diasters. Producers requesting compensation on CCC–661, Certificate of Livestock Losses for Eligible Disaster, must provide documentation to the Farm Service Agency (FSA) that shows the number and type of livestock lost in the disaster.

Need and Use of the Information: FSA will collect information to determine eligibility and the amount of compensation. Without obtaining the information from the producers, FSA could not carry out the statutory provisions and ensure that funds are being provided to eligible producers.

Description of Respondents: Farms.

Number of Respondents: 2,000.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 5,000.

Risk Management Agency

Title: Specialty Crop Producers Survey.

OMB Control Number: 0563–NEW.

Summary of Collection: The Agricultural Risk Protection Act (ARPA) of 2000 requires the Risk Management Agency (RMA) to increase the availability of risk management tools with a priority given to producers of specialty crops. Specialty crops are generally defined as agricultural crops, except wheat, feed grains, oilseeds, cotton, rice, peanuts, and tobacco. Specialty crops include everything from the common fruits and vegetables to mushrooms and maple syrup. The first step in the development of appropriate risk management tools for specialty crop producers is obtaining information that will identify risk structures specific to specialty crop farmers and to specialty crop categories. The survey will identify the potential market for specialty crop insurance, and provide the data necessary to evaluate the options for new insurance programs for specialty crops.

Need and Use of the Information: RMA will collect information to determine how a crop insurance program may be designed or adapted to meet the needs of specialty crop producers. The survey will enable the research partnership of RMA and the universities to develop a risk management profile of specialty crop producers. If the survey were not conducted, the development of risk management programs for specialty crop producers would be compromised.

Description of Respondents: Farms.

Number of Respondents: 69,700.

Frequency of Responses: Reporting: Other (one-time).

Total Burden Hours: 32,526.

Rural Business-Cooperative Service

Title: 7 CFR 4279–B, Guaranteed Loan Making—Business and Industry Loans.

OMB Control Number: 0570–0017.

Summary of Collection: The Business and Industry (B&I) program was legislated in 1972 under section 310B of the Consolidated Farm and Rural Development Act, as amended. The purpose of the program is to improve, develop, and finance businesses, industries, and employment and improve the economic and environmental climate in rural communities. This purpose is achieved through bolstering the existing private credit structure through the guaranteeing of quality loans made by lending institutions, thereby providing lasting community benefits. The B&I program is administered by the Rural Business-Cooperative Service (RBS) through Rural Development State and sub-State offices serving each State. RBS will collect information using forms RD 4279–1, 4279–2, 4279–3, 4279–4 and 4279–6.

Need and Use of the Information: RBS will collect information to determine lender and borrower eligibility and creditworthiness. The information is used by RBS loan officers and approval officials to determine program eligibility and for program monitoring.

Description of Respondents: Business or other for-profit; State, Local or Tribal Government.

Number of Respondents: 8, 875.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 20,813.

Rural Business-Cooperative Service

Title Annual Survey of Cooperative Involvement in International Markets.

OMB Control Number: 0570–0020.

Summary of Collection: The Cooperative Marketing Act of 1926, 7 U.S.C. 453(b)(5), authorizes the Rural Business-Cooperative Services (RBS) to acquire from all available sources, information concerning crop prospects, supply, demand, current receipts, exports, imports, and prices of agricultural products handled or marketed by cooperative associations, and to employ qualified commodity marketing specialists to summarize and analyze this information and disseminate the same among cooperative associations, and others.'' The mission of the Cooperative Services Program of RBS is to assist farmer-owned cooperatives in improving the economic well being of their farmer-members. The facilitate the program's mission and activities as authorized by the Cooperative Marketing Act of 1926, RBS collects, maintains, and analyzes data pertaining to farmer cooperatives. Information is collected through an annual survey mailed to all cooperatives.

Needs and Use of the Information: The information collected by RBS will be used to comply with the agency's mission to acquire and report such information. In addition to monitoring and reporting the progress of cooperatives in global markets, RBS will use the data in economic/market research and will also produce educational materials about cooperatives.

Description of Respondents: Business or other for-profit.

Number of Respondents: 127.

Frequency of Responses: Reporting: Annually.

Total Burden Hours. 127.

Rural Utilities Service

Title: RUS Electric Loan Application and Related Reporting Burdens.

OMB Control Number 0572–0032.

Summary of Collection: The Rural Utilities Service (RUS) was established in 1994 by the Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994 (Public Law 103–354, 108 Stat. 3178, 7 U.S.C. et seq.) As successor to the Rural Electrification Administration (REA), RUS is responsible for administering the electric loan and loan guarantee programs authorized under the Rural Electrification Act (RE Act of 1936). The Administrator of RUS is authorized to make and guarantee loans to furnish and improve electric service in rural areas. These loans are amortized over a period of up to 35 years and secured by the borrower's electric assets. RUS will collect information including studies and reports to support borrower loan applications.

Need and Use of the Information: RUS will collect information to determine the eligibility of applicants for loans and loan guarantees under the RE Act; monitor the compliance of borrowers with debt covenants and regulatory requirements in order to protect loan security; ensure that borrowers use loan funds for purposes consistent with the statutory goals of the RE Act; and obtain information on the progress of rural electrification and evaluate the success of RUS program activities.

Description of Respondents: Not-for-profit institutions; Business or other for-profit; State, Local or Tribal Government.

Number of Respondents: 680.

Frequency of Responses: Reporting: On occasion; Annually.

Total Burden Hours: 65,673.

Natural Resources Conservation Service

Title: Risk Protection Programs.

OMB Control Number: 0578–0028.

Summary of Collection: The primary objective of the Natural Resources Conservation Service (NRCS) is to work in partnership with the American people to conserve and sustain our natural resources. The purpose of the Risk Protection Program is to provide NRCS program participants a method for making application for participation in the Agricultural Management Assistance and Soil and Water Conservation Assistance Program. The Risk Protection Program is authorized under the Agricultural Risk Protection Act of 2000, Public Law 106–224,

sections 133(b) and 211(b). NRCS is responsible for the administration of various conservation programs. Assistance is provided to land users to voluntarily develop plans and apply conservation treatments for those programs. NRCS will collect information using forms CCC–1200, Conservation Program Contract and CCC–1245, Practice Approval and Payment Application.

Need and Use of the Information: NRCS will collect information to authorize the responsible federal official to make federal cost-share payments to the land user, or third party, upon successful application of the long-term conservation treatment. Without the information, funds appropriated by Congress could not be obligated or dispensed without the supporting information on either the Conservation Program Contract or the Practice Approval and Payment Authorization forms.

Description of Respondents: Farms; Individuals or households; Not-for-profit institutions; State, Local or Tribal Government.

Number of Respondents: 5,000.

Frequency of Responses: Reporting: Annually; Other (as required for assistance).

Total Burden Hours: 2,917.

Animal and Plant Health Inspection Service

Title: Certificate of Poultry and Hatching Eggs for Export.

OMB Control Number: 0579–0048.

Summary of Collection: Certificate for Poultry and Hatching Eggs for Export is authorized by 21 U.S.C. 112 and 113. The regulation that implements this law is found in part 91 of Title 9, Code of Federal Regulations. The export of agricultural commodities, including poultry and hatching eggs, is a major business in the United States and contributes to a favorable balance of trade. As part of its mission to facilitate the export of U.S. poultry and poultry products, the U.S. Department of Agriculture (USDA), Animal and Plant Health Inspection Service (APHIS), Veterinary Services, maintains information regarding the import health requirements of other countries for poultry and hatching eggs exported from the U.S. Most countries require a certification that our poultry and hatching eggs are disease free. APHIS will collect information on the quantity and type of poultry and hatching eggs designated for export, using form 17–6, Certificate for Poultry and Hatching Eggs for Export.

Need and Use of the Information: The information collected prevents unhealthy poultry or disease-carrying hatching eggs from being exported from the United States, thereby preventing the international dissemination of poultry diseases. The collection of information also is necessary to satisfy the import requirements of the receiving countries, thereby protecting and encouraging trade with the United States.

Description of Respondents: Farms; Federal Government;State, Local or Tribal Government;Individuals or households; Business or other for-profit.

Number of Respondents: 300.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 10,500.

Animal and Plant Health Inspection Service

Title: 9 CFR 85 Psuedorabies.

OMB Control Number: 0579–0070.

Summary of Collection: The Animal and Plant Health Inspection Service (APHIS), on behalf of the Secretary of Agriculture, is charged with taking actions deemed necessary to prevent the introduction or dissemination of any contagious infections or communicable disease of animals or poultry from one State or Territory of the United States to another. APHIS implements regulations that control and stop the escalating spread of psuedorabies, which is a herpes virus disease that affects many species of animal, but primarily swine. Regulating the interstate movement of swine requires the use of certain information gathering activities such as permits, certificates, and owner-shipper statements to ascertain the health status of the swine.

Need and Use of the Information: The information collected is used by APHIS to monitor the health status of swine being moved, the number of swine being moved in a particular shipment, the shipment's point of origin, the shipment's destination, and the reason for the interstate movement. This information also provides APHIS officials with critical information concerning a shipment's history, which in turn enables APHIS to engage in swift, successful trace back investigations when infected swine are discovered.

Description of Respondents: Farms; Federal Government; State, Local or Tribal Government.

Number of Respondents: 30,050.

Frequency of Responses: Recordkeeping; Reporting: On occasion; Quarterly.

Total Burden Hours: 5,092.

Food and Nutrition Service

Title: Child Nutrition Database.

OMB Control Number: 0584–0494.

Summary of Collection: The Child Nutrition (CN) Database is a necessary component in implementation of USDA's Food and Nutrition Service (FNS) National School Lunch Program (NSLP) and School Breakfast Program (SBP): School Meals Initiative for Healthy Children final rule published in the June 13, 1995 **Federal Register**, Volume 60, No. 113. The overriding purpose in NSLP and SBP initiatives is to serve more nutritious and healthful meals to school children. FNS has updated the regulations which established the specific nutrition criteria for reimbursable school meals incorporating the Recommended Dietary Allowances (RDA) issued by the Food and Nutrition Board, Commission on Life Sciences, National Research Council for key nutrients, energy allowances for calories, and the most current nutritional standards as outlined in the Dietary Guidelines. FNS will collect information using a database that contains information on the nutritional composition.

Need and Use of the Information: FNS will collect information on (1) USDA commodities; (2) USDA Nutrient Database for Standard Reference food items which are used in the SBP and NSLP; (3) quantity recipes for school food service developed by USDA; and (4) brand name commercially processed foods. The information gathered for the CN Database is required to be used in software program approved by USDA for use in meeting the nutrient standards and nutrition goals of the Child Nutrition Program meal pattern. Both the States and program will use the information.

Description of Respondents: Business or other for-profit.

Number of Respondents: 75.

Frequency of Responses: Report: Other (as needed).

Total Burden Hours: 2500.

Grain Inspection, Packers and Stockyards Administration

Title: Guidelines for Preparation of Research Proposals.

OMB Control Number: 0580–0014.

Summary of Collection: The Grain Inspection, Packers and Stockyards Administration (GIPSA) is responsible for establishment of grain standards which accurately describe the quality of grain being traded and for the uniform application of these standards in a nationwide inspection system. GIPSA maintains an external research program under which research scientists are invited to submit research grant proposals aimed at developing methods to improve accuracy and uniformity in

grading grain. Research grant proposals must include the objectives of the proposed work; application of the proposed work to the grain inspection system; the procedures, equipment, personnel, etc., that will be used to reach the project objectives; the costs of the project, a schedule for completion; qualifications of the investigator and the grantee organization; and a listing of all other sources of financial support for the project. Grant proposals may be submitted to GIPSA at anytime; however, a formal Research Coordination Team reviews the proposals twice a year.

Need and Use of the Information: The information collected is used by GIPSA to determine the projects that would address the highest priority problems. The information is also critical for ensuring that the proposed projects are technically feasible and that the sponsoring organizations have the resources to support the project including personnel with the appropriate technical capabilities.

Description of Respondents: State, Local or Tribal Government; Business or other for-profit; Not-for-profit institutions.

Number of Respondents: 4.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 80.

Sondra A. Blakey,

Department Information Collection Clearance Officer.

[FR Doc. 02–2182 Filed 1–29–02; 8:45 am]

BILLING CODE 3410–01–M

DEPARTMENT OF AGRICULTURE

Forest Service

Post Fire Vegetation and Fuels Management Project, Beaverhead-Deerlodge National Forest, Beaverhead and Deerlodge Counties, MT

AGENCY: Forest Service, USDA.

ACTION: Notice, intent to prepare an environmental impact statement.

SUMMARY: The Forest Service will prepare an environmental impact statement to document the analysis and disclose the environmental impacts of proposed hazardous fuels reduction, bark beetle sanitation, and the maintenance and/or restoration of vegetative communities (willow bottoms, mature riparian spruce, and mature Douglas-fir) on approximately 1500 acres in the areas burned by the Mussigbrod and Middlefork fires of 2000 in the Beaverhead-Deerlodge National Forest. The project area is located within the Wisdom and Pintler Ranger Districts of the Beaverhead-Deerlodge National Forest in Beaverhead and Deerlodge Counties, Montana. The Mussigbrod fire complex burned approximately 59,000 acres within the Big Hole River watershed, including Trail, Prairie, Tie, Johnson, Bender, Mussigbrod, Plimpton, and Pintler Creeks. The Middle Fork fire complex burned approximately 18,000 acres in 11 areas in the Rock Creek watershed, including the Middle Fork, Rock Fork, and West Fork sub basins.

The decision to be made is the amount of hazardous fuels reduction, bark beetle sanitation (harvest and nonharvest methods), and willow regeneration treatments to implement.

DATES: Initial comments concerning the scope of the analysis should be received in writing no later than March 4, 2002.

ADDRESSES: The responsible official is Forest Supervisor Janette Kaiser, Beaverhead-Deerlodge National Forest, Dillon, Montana. Please send comments to Janette Kaiser, Beaverhead-Deerlodge National Forest, 420 Barrett Street, Dillon, MT 59725. Comments may be electronically submitted to *rl_b-d_comments@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Amy Nerbun, ID Team Leader, Beaverhead-Deerlodge National Forest, 420 Barrett Street, Dillon, MT 59725, or phone (406) 683–3948, or by e-mail to *anerbun@fs.fed.us.*

SUPPLEMENTARY INFORMATION: The purpose of this project is to reduce hazardous fuels, limit potential for extreme bark beetle damage in selected important areas, and promote willow regeneration in areas historically occupied by willow. Treatments are proposed on approximately 1400 acres in the Mussigbrod complex, and 100 acres in the Middle Fork complex.

Treatment activities would remove trees that pose fuels risk, pose the greatest risk to harboring beetle broods, and impede natural recovery of historic vegetative communities (i.e. willow bottoms). Treatment in roadless areas will be limited to use of anti-aggregation pheromones (such as MCH) to reduce the likelihood of beetle attacks.

Public participation is important to this analysis. Part of the goal of public involvement is to identify additional issues and to refine general issues. A scoping notice was mailed to the public on September 24, 2001. Twenty-eight responses were received Fifteen people/organizations provided written comments. Preliminary issues identified were:

1. Bark Beetle Risk. Bark beetle populations and beetle-caused tree mortality are expected to increase due to extensive areas of fire-stressed trees that provide ideal bark beetle habitat. There is a high probability that bark beetle populations will increase and expand and kill trees in unburned areas.

2. Continuous heavy fuel loads within the Mussigbrod fire area and adjacent to private lands influence the ability to control wildfire safely and effectively.

3. Historic vegetative composition and structure. Heavy fuels accumulation and bark beetle related tree mortality could impede maintenance and/or natural regeneration of suppressed willow, riparian spruce, and large-diameter Douglas-fir.

Many comments received during scoping centered on impacts to water quality, soils, and wildlife. Although theses issues were not identified as key issues (i.e. they did not drive an alternative), they did have bearing on the alternatives developed, and played a key role in the development of mitigation measures.

The interdisciplinary team developed four alternatives to the proposed action, which vary by the amounts and types of treatment proposed. The analysis will consider all reasonably foreseeable activities.

People may visit with Forest Service officials at any time during the analysis and prior to the decision. Two periods are specifically designated for comments on the analysis: (1) during the scoping process, and (2) during the draft EIS period.

During the scoping process, the Forest Service seeks additional information and comments from individuals or organizations that may be interested in or affected by the proposed action, and federal, and state, and local agencies. The Forest Service invites written comments and suggestions on this action, particularly in terms of issues and alternative development.

The draft EIS is anticipated to be available for review in March, 2002. The final EIS is planned for completion in June, 2002.

The Environmental Protection Agency will publish the Notice of Availability of the draft Environmental Impact Statement in the **Federal Register.** The Forest will also publish a legal notice of its availability in the Montana Standard Newspaper, Butte, Montana. A 45-day comment period on the draft EIS will begin the day after the legal notice is published.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact

statement must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519,553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

The responsible official will make the decision on this proposal after considering comments and responses, environmental consequences discussed in the final EIS, applicable laws, regulations, and policies. The decision and reasons for the decision will be documented in a Record of Decision.

Dated: January 23, 2002.

Peri Suenram,

Acting Forest Supervisor.

[FR Doc. 02–2181 Filed 1–29–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Inviting Preapplications for Technical Assistance for Rural Transportation Systems

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice.

SUMMARY: The Rural Business-Cooperative Service (RBS), an Agency within the Rural Development mission area, announces the availability of two individual grants; one single $500,000 grant from the passenger transportation funds appropriated for the RBS Rural Business Enterprise Grant (RBEG) program and another single $250,000 grant from the Federally Recognized Native American Tribes funds appropriated for RBS under the RBEG Program for Fiscal Year (FY) 2002. Each grant is to be competitively awarded to a qualified national organization. These grants are to provide technical assistance for rural transportation.

DATES: The deadline for receipt of preapplications in the Rural Development State Office is March 1, 2002. Preapplications received at a Rural Development State Office after that date would not be considered for FY 2002 funding.

ADDRESSES: For further information, entities wishing to apply for assistance should contact a Rural Development State Office to receive further information and copies of the preapplication package. Potential applicants located in the District of Columbia must send their preapplications to the National Office by the date indicated above.

District of Columbia

Rural Business-Cooperative Service, USDA, Specialty Lenders Division, Room 6867, 1400 Independence Avenue, SW., Washington, DC 20250–3225, (202) 720–1400.

A list of Rural Development State Offices follows:

Alabama

USDA Rural Development State Office, Sterling Center, Suite 601, 4121 Carmichael Road, Montgomery, AL 36106–3683, (334) 279–3400

Alaska

USDA Rural Development State Office, 800 West Evergreen, Suite 201, Palmer, AK 99645–6539, (907) 761–7705.

Arizona

USDA Rural Development State Office, 3003 North Central Avenue, Suite 900, Phoenix, AZ 85012–2906, (602) 280–8700.

Arkansas

USDA Rural Development State Office, 700 West Capitol Avenue, Room 3416, Little Rock, AR 72201–3225, (501) 301–3200.

California

USDA Rural Development State Office, 430 G Street, Agency 4169, Davis, CA 95616–4169, (530) 792–5800.

Colorado

USDA Rural Development State Office, 655 Parfet Street, Room E–100, Lakewood, CO 80215, (720) 544–2903.

Delaware-Maryland

USDA Rural Development State Office, P.O. Box 400, 4607 South DuPont Highway, Camden, DE 19934–9998, (302) 697–4300.

Florida/Virgin Islands

USDA Rural Development State Office, P.O. Box 147010, 4440 NW. 25th Place, Gainesville, FL 32606, (352) 338–3402.

Georgia

USDA Rural Development State Office, Stephens Federal Building 355 E. Hancock Avenue, Athens, GA 30601–2768, (706) 546–2162.

Hawaii

USDA Rural Development State Office, Federal Building, Room 311, 154 Waianuenue Avenue, Hilo, HI 96720, (808) 933–8380.

Idaho

USDA Rural Development State Office, 9173 West Barnes Dr., Suite A1, Boise, ID 83709, (208) 378–5600.

Illinois

USDA Rural Development State Office, 2118 West Park Court, Suite A, Champaign, IL 61821, (217) 403–6202.

Indiana

USDA Rural Development State Office, 5975 Lakeside Boulevard, Indianapolis, IN 46278, (317) 290–3100.

Iowa

USDA Rural Development State Office, Federal Building, Room 873, 210 Walnut Street, Des Moines, IA 50309–2196, (515) 284–4663.

Kansas

USDA Rural Development State Office, Suite 100, 1303 SW First American Place, Topeka, KS 66604, (785) 271–2700.

Kentucky

USDA Rural Development State Office 771 Corporate Drive, Suite 200, Lexington, KY 40503, (859) 224–7300.

Louisiana

USDA Rural Development State Office 3727 Government Street, Alexandria, LA 71302, (318) 473–7921.

Maine

USDA Rural Development State Office, P.O. Box 405, 967 Illinois Avenue, Suite 4, Bangor, ME 04402–0405, (207) 990–9106.

Massachusetts/Rhode Island/ Connecticut

USDA Rural Development State Office 451 West Street, Suite 2, Amherst, MA 01002–2999, (413) 253–4300.

Michigan

USDA Rural Development State Office 3001 Coolidge Road, Suite 200, East Lansing, MI 48823, (517) 324–5100.

Minnesota

USDA Rural Development State Office 410 AgriBank Building 375 Jackson Street, St. Paul, MN 55101–1853, (651) 602–7800.

Mississippi

USDA Rural Development State Office, Federal Building, Suite 831, 100 West Capitol Street, Jackson, MS 39269, (601) 965–4316.

Missouri

USDA Rural Development State Office 601 Business Loop 70 West, Parkade Center, Suite 235, Columbia, MO 65203, (573) 876–0976.

Montana

USDA Rural Development State Office, P.O. Box 771, 900 Technology Blvd., Unit 1, Suite B, Bozeman, MT 59715, (406) 585–2580.

Nebraska

USDA Rural Development State Office, Federal Building, Room 152, 100 Centennial Mall North, Lincoln, NE 68508, (402) 437–5551.

Nevada

USDA Rural Development State Office 1390 South Curry Street, Carson City, NV 89703–9910, (775) 887–1222.

New Jersey

USDA Rural Development State Office, Tarnsfield Plaza, Suite 22, 790 Woodlane Road, Mt. Holly, NJ 08060, (609) 265–3600.

New Mexico

USDA Rural Development State Office 6200 Jefferson Street, NE., Room 255, Albuquerque, NM 87109, (505) 761–4950.

New York

USDA Rural Development State Office, The Galleries of Syracuse 441 South Salina Street, Suite 357, Syracuse, NY 13202–2541, (315) 477–6400.

North Carolina

USDA Rural Development State Office 4405 Bland Road, Suite 260, Raleigh, NC 27609, (919) 873–2000.

North Dakota

USDA Rural Development State Office, P.O. Box 1737, Federal Building, Room 208, 220 East Rosser Avenue, Bismarck, ND 58502–1737, (701) 530–2037.

Ohio

USDA Rural Development State Office, Federal Building, Room 507, 200 North High Street, Columbus, OH 43215–2418, (614) 255–2500.

Oklahoma

USDA Rural Development State Office, 100 USDA, Suite 108,Stillwater, OK 74074–2654, (405) 742–1000.

Oregon

USDA Rural Development State Office, 101 SW Main Street, Suite 1410,Portland, OR 97204–3222, (503) 414–3300.

Pennsylvania

USDA Rural Development State Office, One Credit Union Place, Suite 330, Harrisburg, PA 17110–2996, (717) 237–2299.

Puerto Rico

USDA Rural Development State Office, 654 Munoz Rivera Avenue,IBM Plaza, Suite 601, Hato Rey, Puerto Rico 00918–6106, (787) 766–5095.

South Carolina

USDA Rural Development State Office, Strom Thurmond Federal Building, 1835 Assembly Street, Room 1007, Columbia, SC 29201, (803) 765–5163.

South Dakota

USDA Rural Development State Office, Federal Building, Room 210, 200 4th Street, SW., Huron, SD 57350, (605) 352–1100.

Tennessee

USDA Rural Development State Office, 3322 West End Avenue, Suite 300,Nashville, TN 37203–1084, (615) 783–1300.

Texas

USDA Rural Development State Office, Federal Building, Suite 102, 101 South Main Street, Temple, TX 76501, (254) 742–9700.

Utah

USDA Rural Development State Office, Wallace F. Bennett Federal Building, 125 South State Street, Room 4311, P.O. Box 11350, Salt Lake City, UT 84147–0350, (801) 524–4321.

Vermont/New Hampshire

USDA Rural Development State Office, City Center, 3rd Floor, 89 Main Street, Montpelier, VT 05602, (802) 828–6010.

Virginia

USDA Rural Development State Office, Culpeper Building, Suite 238,1606 Santa Rosa Road, Richmond, VA 23229–5014, (804) 287–1550.

Washington

USDA Rural Development State Office, 1835 Black Lake Boulevard, SW.,Suite B, Olympia, WA 98512–5715, (360) 704–7740.

West Virginia

USDA Rural Development State Office, Federal Building, 75 High Street, Room 320, Morgantown, WV 26505–7500, (304) 284–4860.

Wisconsin

USDA Rural Development State Office, 4949 Kirschling Court, Stevens Point, WI 54481, (715) 345–7610.

Wyoming

USDA Rural Development State Office, Federal Building, Room 1005, 100 East B Street, P.O. Box 820, Casper, WY 82602, (307) 261–6300.

SUPPLEMENTARY INFORMATION: The passenger transportation portion of the RBEG program is authorized by section 310B(c)(2) of the Consolidated Farm and Rural Development Act (CONACT) (7 U.S.C. 1932(c)(2)). The RBEG program is administered on behalf of RBS at the state level by the Rural Development State Offices. The primary objective of the program is to improve the economic conditions of rural areas. Assistance provided to rural areas under this program may include on-site technical assistance to local and regional governments, public transit agencies, and related nonprofit and for-profit organizations in rural areas; the development of training materials; and the provision of necessary training assistance to local officials and agencies in rural areas.

Awards under the RBEG passenger transportation program are made on a competitive basis to a qualified national organization using specific selection criteria contained in 7 CFR part 1942, subpart G, and in accordance with section 310B(c)(2) of the CONACT. 7

CFR part 1942, subpart G, also contains the information required to be in the preapplication package. For the $250,000 grant, at least 75 percent of the benefits of the project must be received by members of Federally Recognized Tribes. The project that scores the greatest number of points based on the selection criteria will be selected for each grant. Preapplications will be tentatively scored by the State Offices and submitted to the National Office for review, final scoring, and selection.

To be considered ''national'', a qualified organization is required to provide evidence that it operates in multi-state areas. There is not a requirement to use the grant funds in a multi-state area. Under this notice, grants will be made to qualified private non-profit organizations for the provision of technical assistance and training to rural communities for the purpose of improving passenger transportation services or facilities. Public bodies are not eligible for passenger transportation RBEG grants.

The information collection requirements of the RBEG program (7 CFR part 1942, subpart G) have received clearance by the Office of Management and Budget (OMB) under OMB Control Number 0570–0022.

Fiscal Year 2002 Preapplications Submission

Each preapplication received in a Rural Development State Office will be reviewed to determine if this preapplication is consistent with the eligible purposes contained in section 310B(c)(2) of the CONACT. Each selection priority criterion outlined in 7 CFR part 1942, subpart G, section 1942.305(b)(3), must be addressed in the preapplication. Failure to address any of the criteria will result in a zero-point score for that criterion and will impact the overall evaluation of the preapplication. Copies of 7 CFR part 1942, subpart G, will be provided to any interested applicant making a request to a Rural Development State Office listed in this notice. All projects to receive technical assistance through these passenger transportation grant funds are to be identified when the preapplications are submitted to the Rural Development State Office. Multiple project preapplications must identify each individual project, indicate the amount of funding requested for each individual project, and address the criteria as stated above for each individual project. For multiple-project preapplications, the average of the individual project scores will be the score for that preapplication.

All eligible preapplications, along with tentative scoring sheets and the Rural Development State Director's recommendation, will be referred to the National Office no later than April 12, 2002, for final scoring and selection for award.

The National Office will score preapplications based on the grant selection criteria and weights contained in 7 CFR part 1942, subpart G, and will select a grantee subject to the grantee's satisfactory submission of a formal application and related materials in the manner and time frame established by RBS in accordance with 7 CFR part 1942, subpart G. It is anticipated that the grantees will be selected by June 3, 2002. All applicants will be notified by RBS of the Agency decision on the award.

Dated: January 16, 2002.

William F. Hagy III,

Acting Administrator, Rural Business-Cooperative Service.

[FR Doc. 02–2169 Filed 1–29–02; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Information Systems Technical Advisory Committee; Notice of Partically Closed Meeting

The Information Systems Technical Advisory Committee (ISTAC) will meet on February 14 & 15, 2002, 9:00 a.m., at the Space and Naval Warfare Systems Center (SSC), Point Loma, San Diego, California. The ISTAC advised the Office of the Assistant Secretary for Export Administration on technical questions that affect the level of export controls applicable to information systems equipment and technology.

Agenda

February 14

Public Session

1. Opening remarks and introductions.

2. Comments or presentations from the public.

3. SSC Information Assurance Project.

4. Introduction to Third Generation Input/Output (3GIO).

5. Trusted Computing Platform Alliance.

6. Department of Defense Software Protection Initiative.

7. Review of Computer-Aided Design (CAD) software controls.

February 14–15

Closed Session

8. Discussion of matters properly classified under Executive Order 12958, dealing with U.S. export control programs and strategic criteria related thereto.

A limited number of seats will be available for the public session. Reservations are not accepted. To the extent time permits, members of the public may present oral statements to the ISTAC. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the ISTAC suggests that public presentation materials or comments be forwarded before the meeting to the address listed below:

Ms. Lee Ann Carpenter, OSIES/EA/BXA, MS: 3876, U.S. Department of Commerce, 14th St. & Constitution Ave., NW., Washington, DC 20230

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 7, 2001, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of the Committee and of any Subcommittees thereof dealing with the classified materials listed in 5 U.S.C. 552(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and (a)(3) of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of this Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6020, U.S. Department of Commerce, Washington, DC. For more information or copies of the minutes call Lee Ann Carpenter, 202–482–2583.

Dated: January 22, 2002.

Lee Ann Carpenter,

Committee Liaison Officer.

[FR Doc. 02–2264 Filed 1–29–02; 8:45 am]

BILLING CODE 3510–JT–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1205]

Grant of Authority for Subzone Status; Northrop Grumman Corporation—Defense Systems Division (Radar and Electro-Optical Systems), Rolling Meadows, IL

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones Act provides for ''* * * the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and when the activity results in a significant public benefit and is in the public interest;

Whereas, the Illinois International Port District, grantee of Foreign-Trade Zone 22, has made application to the Board for authority to establish special-purpose subzone status at the manufacturing facilities (radar and electro-optical systems) of Northrop Grumman Corporation—Defense Systems Division, located in Rolling Meadows, Illinois (FTZ Docket 59–2000, filed 11/15/2000);

Whereas, notice inviting public comment has been given in the **Federal Register** (65 FR 71297, 11/30/2000); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that approval of the application would be in the public interest;

Now, Therefore, the Board hereby grants authority for subzone status at the radar and electro-optical systems manufacturing facilities of Northrop Grumman Corporation—Defense Systems Division located in Rolling Meadows, Illinois (Subzone 22M), at the location described in the application, subject to the FTZ Act and the Board's regulations, including section 400.28.

Signed at Washington, DC, this 15th day of January, 2002.

Faryar Shirzad,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 02–2256 Filed 1–29–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1204]

Expansion of Foreign-Trade Zone 29;Louisville, KY, Area

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Louisville and Jefferson County Riverport Authority, grantee of Foreign-Trade Zone 29, submitted an application to the Board for authority to include an additional site at the Cedar Grove Business Park (Site 6) in Bullitt County, Kentucky, adjacent to the Louisville Customs port of entry (FTZ Docket 23–2001; filed 6/7/01);

Whereas, notice inviting public comment was given in the **Federal Register** (66 FR 32599, 6/15/01) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that the proposal is in the public interest;

Now, therefore, the Board hereby orders:

The application to expand FTZ 29 is approved, subject to the Act and the Board's regulations, including Section 400.28, and further to the Board's standard 2,000-acre activation limit for the overall zone project.

Signed at Washington, DC, this 15th day of January 2002.

Faryar Shirzad,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

[FR Doc. 02–2255 Filed 1–29–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1206]

Grant of Authority for Subzone Status; C&J Clark America, Inc. Distribution Facility (Footwear), Hanover, PA

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones Act provides for ''* * * the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved; and when the activity results in a significant public benefit and is in the public interest;

Whereas, the Foreign-Trade Zone Corporation of Southeastern Pennsylvania, grantee of Foreign-Trade Zone 147, has made application to the Board for authority to establish special-purpose subzone status at the footwear distribution facility of C&J Clark America, Inc. in Hanover, Pennsylvania (FTZ Docket 11–2001, filed February 15, 2001);

Whereas, notice inviting public comment has been given in the **Federal Register** (66 FR 12459, 2/27/01; and amended 66 FR 41500, 8/8/01); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that approval of the application, as amended, is in the public interest;

Now, Therefore, the Board hereby grants authority for subzone status at the of footwear distribution facility of C&J Clark America, Inc., located in Hanover, Pennsylvania (Subzone 147A), at the location described in the application, as amended, subject to the FTZ Act and the Board's regulations, including section 400.28.

Signed at Washington, DC, this 18th day of January, 2002.

Faryar Shirzad,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 02–2257 Filed 1–29–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 6–2002]

Foreign-Trade Zone 165—Midland, TX; Expansion of Manufacturing Authority—Subzone 165A; Phillips Petroleum Company, (Oil Refinery Complex), Borger, TX

An application has been submitted to the Foreign-Trade Zones Board (the Board) by Phillips Petroleum Company (Phillips), requesting authority to expand the scope of manufacturing activity conducted under zone procedures within Subzone 165A at the Phillips oil refinery complex in Borger, Texas. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on January 22, 2002.

Subzone 165A (130,000 BPD capacity) was approved in December 2000, subject to the Board's standard oil refinery subzone restrictions, and is located at two sites in Borger, Texas: Site 1 (6,045 acres)—main refinery complex, located at Spur 119 North, Borger; Site 2 (585 acres)—crude oil tank farm, located on Highway 136, Borger, 5 miles north of the main refinery complex. Authority was granted for the manufacture of fuel products and certain petrochemical feedstocks and refinery by-products (Board Order 1134, 65 FR 82322, 12/28/00).

The refinery is used to produce fuels and petrochemical feedstocks. The request involves a debottlenecking and expansion project which includes the construction of a crude fractionating tower within Site 1. The new facilities will increase the overall capacity of the refinery to 150,000 BPD. The feedstocks used and product slate will remain unchanged.

Zone procedures would exempt the new refinery facilities from Customs duty payments on the foreign products used in its exports. On domestic sales, the company would be able to choose the Customs duty rates for certain petrochemical feedstocks (duty-free) by admitting foreign crude oil in non-privileged foreign status. The application indicates that any additional savings from zone procedures would help improve the refinery's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ staff has been appointed examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at one of the following addresses:

1. Submissions Via Express/Package Delivery Services: Foreign-Trade-Zones Board, U.S. Department of Commerce, Franklin Court Building—Suite 4100W, 1099 14th St. NW., Washington, DC 20005; or

2. Submissions Via the U.S. Postal Service: Foreign-Trade-Zones Board, U.S. Department of Commerce, FCB—Suite 4100W, 1401 Constitution Ave. NW., Washington, DC 20230.The closing period for their receipt is April 1, 2002. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to April 15, 2002.

A copy of the application and accompanying exhibits will be available for public inspection at the Office of the Foreign-Trade Zones Board's Executive Secretary at the first address listed above, and at the U.S. Customs Service, 10801 Airport Blvd., Amarillo, TX 79111.

Dated: January 22, 2002.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 02–2254 Filed 1–29–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–831]

Notice of Correction to the Extension of Time Limit for the Final Results of Antidumping New Shipper Review and the Final Results of Antidumping Administrative Review of the Antidumping Duty Order on Fresh Garlic from the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Correction of extension of time limit for the final results of antidumping new shipper review and the final results of antidumping administrative review.

SUMMARY: The Department of Commerce published an extension of time limit for the final results of antidumping new shipper review and final results of antidumping administrative review on fresh garlic from the People's Republic from China (December 27, 2001, 66 FR 66872).

The new shipper review covers one exporter, Clipper Manufacturing Co. Ltd. The period of review is June 1, 2000, through November 30, 2000. The administrative review covers four manufacturers/exporters and the period November 1, 1999, through October 31, 2000. The extension notice incorrectly identified the date for issuance of the final results as February 2, 2002. The correct date for issuance is February 20, 2002.

EFFECTIVE DATE: January 30, 2002.

FOR FURTHER INFORMATION CONTACT: Hermes Pinilla or Edythe Artman, AD/CVD Enforcement 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–3477 or (202) 482–3931, respectively.

This determination and notice are in accordance with section 751(a)(3)(A) of the Act.

January 24, 2002

Richard W. Moreland,

Deputy Assistant Secretary for AD/CVD Enforcement I.

[FR Doc. 02–2252 Filed 1–29–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–836]

Live Processed Blue Mussels from Canada: Notice of Termination of Antidumping Investigation

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of termination of antidumping investigation for the period April 1, 2000 through March 31, 2001.

SUMMARY: On April 6, 2001, the Department of Commerce (the Department) initiated an antidumping investigation of live processed blue mussels from Canada. See Notice of Initiation of Antidumping Investigation: Live Processed Blue Mussels From

Canada, 66 FR 18227 (April 6, 2001). The Department is terminating this investigation after receiving a timely withdrawal of the petition from the petitioner.

EFFECTIVE DATE: January 30, 2002.

FOR FURTHER INFORMATION CONTACT: Thomas F. Futtner or Paige Rivas, AD/CVD Enforcement, Group II, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–3814 or (202) 482–0651, respectively; fax (202) 482–5105.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions in effect as of January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations as codified at 19 CFR part 351 (2001).

Background

On March 12, 2001, the Department received a petition from Great Eastern Mussel Farms, Inc. (Great Eastern) alleging that live processed blue mussels from Canada were being sold, or were likely to be sold, in the United States at less than fair value. On April 6, 2001, the Department initiated an antidumping investigation of live processed blue mussels from Canada for the period April 1, 2000 through March 31, 2002 in order to determine whether merchandise imported into the United States is being sold at dumped prices. On October 18, 2001, the Department published in the Federal Register a notice of preliminary determination of sales at less than fair. See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Live Processed Blue Mussels from, 66 FR 52888 (October 18, 2001). On January 7, 2002, Great Eastern withdrew its petition citing improved market conditions.

Termination of the Antidumping Investigation

Pursuant to 19 CFR 351.207(b)(1), the Department may terminate an investigation upon withdrawal of the petition by the petitioner provided that the termination of the investigation is in the public interest. We contacted all interested parties to the investigation and notified them in writing of our intent to terminate the investigation and informed them that they had seven days in which to comment on this termination. No domestic interested party has objected to termination of this investigation. As no domestic interested party objects to this termination and the Department is not aware of evidence to the contrary, the Department finds that termination of this investigation is in the public interest. As such, we are terminating this antidumping investigation and will issue instructions directly to the U.S. Customs Service to terminate the suspension of subject merchandise.

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination and notice are in accordance with section 734(a) of the Act and section 19 CFR 351.207(b) of the Department's regulations.

January 24, 2002

Faryar Shirzad,

Assistant Secretaryfor Import Administration.

[FR Doc. 02–2251 Filed 1–29–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 A.M. and 5 P.M. in Suite 4100W, U.S. Department of Commerce, Franklin Court Building, 1099 14th Street, NW, Washington, DC.

Docket Number: 01–023. Applicant: University of Georgia, 151 Barrow Hall, Electron Microscopy Laboratory, Athens, GA 30602–2403. Instrument: Electron Microscope, Model Tecnai 20. Manufacturer: FEI Company, The Netherlands. Intended Use: The instrument is intended to be used to study the structure of biological materials in three dimensions including components of cells such as organelles or filaments, whole cells (i.e. bacteria), large molecules and crystals. The general goal of these investigations is to achieve a detailed understanding of the 3-dimensional structure of some cellular component, which in turn can be used to increase understanding of the function of that component. In addition, the instrument will be used in the courses: CBIO(BIOL) 3410L. Laboratory in Cellular and Developmental Biology, (CBIO)BIOL 5050L/7050L. Electron Microscopy Laboratory, and CBIO 8050–8050L. Techniques in Modern Microscopy. Application accepted by Commissioner of Customs: October 22, 2001.

Docket Number: 01–025. Applicant: University of Illinois at Urbana-Champaign, 207 Henry Administration Building, 506 South Wright Street, Urbana, IL 61801. Instrument: QPix Colony Picker with Gridding and Re-arraying packages. Manufacturer: Genetix Limited, United Kingdom. Intended Use: The instrument is a robot that performs steps of selecting certain cells amongst a large number of others and transferring them to other devices for further investigation. It is intended to be used for research and education of genomics including the study of honey bees, cattle and salmonella. Application accepted by Commissioner of Customs: November 23, 2001.

Gerald A. Zerdy,

Program Manager, Statutory Import Programs Staff.

[FR Doc. 02–2253 Filed 1–29–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

ENVIRONMENTAL PROTECTION AGENCY

Coastal Nonpoint Pollution Control Program: Approval Decisions on Delaware and United States Virgin Islands Coastal Nonpoint Pollution Control Programs

AGENCY: National Oceanic and Atmospheric Administration, U.S.

Department of Commerce, and The U.S. Environmental Protection Agency.

ACTION: Notice of intent to approve the Delaware and United States Virgin Islands coastal nonpoint programs.

SUMMARY: Notice is hereby given of the intent to fully approve the Delaware and United States Virgin Islands Coastal Nonpoint Pollution Control Programs (coastal nonpoint programs) and of the availability of the draft Approval Decisions on conditions for the Delaware and United States Virgin Islands coastal nonpoint programs. Section 6217 of the Coastal Zone Act Reauthorization Amendments (CZARA), 16 U.S.C. 1455b, requires states and territories with coastal zone management programs that have received approval under section 306 of the Coastal Zone Management Act to develop and implement coastal nonpoint programs. Coastal states and territories were required to submit their coastal nonpoint programs to the National Oceanic and Atmospheric Administration (NOAA) and the U.S. Environmental Protection Agency (EPA) for approval in July 1995. NOAA and EPA conditionally approved the Delaware coastal nonpoint program on October 3, 1997 and the United States Virgin Islands coastal nonpoint program on November 18, 1997. NOAA and EPA have drafted approval decisions describing how Delaware and the United States Virgin Islands have satisfied the conditions placed on their programs and therefore have fully approved coastal nonpoint programs.

NOAA and EPA are making the draft decisions for the Delaware and United States Virgin Islands coastal nonpoint programs available for 30-day public comment periods. If no comments are received, the Delaware and United States Virgin Islands programs will be approved. If comments are received, NOAA and EPA will consider whether such comments are significant enough to affect the decision to fully approve the programs.

Copies of the draft Approval Decisions can be found on the NOAA Web site at *http://www.ocrm.nos.noaa.gov/czm/6217/* or may be obtained upon request from: Joseph P. Flanagan, Coastal Programs Division (N/ORM3), Office of Ocean and Coastal Resource Management, NOS, NOAA, 1305 East-West Highway, Silver Spring, Maryland, 20910, tel. 301–713–3155, extension 201, e-mail *joseph.flanagan@noaa.gov.*

DATES: Individuals or organizations wishing to submit comments on the draft Approval Decisions should do so by March 1, 2002.

ADDRESSES: Comments should be made to John King, Acting Chief, Coastal Programs Division (N/ORM3), Office of Ocean and Coastal Resource Management, NOS, NOAA, 1305 East-West Highway, Silver Spring, Maryland, tel. 301–713–3155 extension 195, e-mail *john.king@noaa.go* or, for Delaware, Agnes White, tel. 215–814–5728, e-mail *white.agnes@epa.gov,* EPA Region 3, 1650 Arch Street, Philadelphia, Pennsylvania, 19103–2029; for United States Virgin Islands, to Donna Somboonlakana, tel. 212–637–3700, e-mail *somboonlakana.donna@epa.gov,* EPA Region 2, 290 Broadway, New York, New York, 10007–1866.

FOR FURTHER INFORMATION CONTACT: For Delaware, Joelle Gore, Coastal Programs Division (N/ORM3), Office of Ocean and Coastal Resource Management, NOS, NOAA, 1305 East-West Highway, Silver Spring, Maryland 20910, tel. 301–713–3155, extension 177, e-mail *joelle.gore@noaa.gov;* for United States Virgin Islands, Jewel Griffin-Linzey, Coastal Programs Division (N/ORM3), Office of Ocean and Coastal Resource Management, NOS, NOAA, 1305 East-West Highway, Silver Spring, Maryland, 20910, tel. 301–713–3155, extension 163, e-mail *jewel.griffin-linzey@noaa.gov.*

(Federal Domestic Assistance Catalog 11.419 Coastal Zone Management Program Administration)

Dated: January 25, 2002.

Margaret A. Davidson,

Acting Assistant Administrator for Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration.

Diane C. Regas,

Deputy Assistant Administrator, Office of Water, Environmental Protection Agency.

[FR Doc. 02–2265 Filed 1–29–02; 8:45 am]

BILLING CODE 3510–08–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 012402C]

New England Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The New England Fishery Management Council and Mid-Atlantic Council (Councils) are scheduling a public meeting of their joint Monkfish Oversight Committee and Advisory Panel in February, 2002 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from these groups will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The joint meeting will be held on Tuesday, February 12, 2002 and the committee meeting will be held Wednesday, February 13, 2002. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meeting will be held at the Sheraton Ferncroft, 50 Ferncroft Road, Danvers, MA 01923; telephone: (978) 777–2500.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Meeting Date and Agenda

Tuesday, February 12, 2002 at 10:00 a.m. and Wednesday, February 13, 2002 at 9:30 a.m.

Tuesday's joint meeting Agenda: The Advisory Panel will elect a chair. The Committee and Advisors will review the Amendment 2 purpose and need, timeline, stock status and management advice from SAW 34, PDT recommendations and scoping comments on Amendment 2 to the Monkfish Fishery Management Plan (FMP). Advisors will provide the Committee with initial comments and recommendations for measures to be considered in Amendment 2. Items to be considered are covered in the Amendment 2 scoping document.

Wednesday's committee meeting agenda: The Committee will outline Amendment 2 goals and objectives and provide guidance to the PDT on the analysis needed to develop management alternatives. The Committee will also set a meeting schedule to enable the completion of timeline milestones, particularly finalization of alternatives to be considered by the Council for inclusion in the Draft Supplemental Environmental Impact Statement at the May Council meeting.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically

listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: January 25, 2002.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 02–2262 Filed 1–29–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 012402D]

New England Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Habitat Oversight Committee and Skate Oversight Committee and Advisory Panel in February, 2002. Recommendations from these groups will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meetings will held on February 14, 2002 and February, 25, 2002.

ADDRESSES: The meetings will be held in Mansfield and Danvers, MA.

Council address: New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Meeting Dates and Agendas

Thursday, February 14, 2002, at 9:30 a.m.—Habitat Oversight Committee Meeting.

Location: Holiday Inn, 31 Hampshire Street, Mansfield, MA 02048; telephone: (508) 339–2200.

The Committee will review alternatives for designating essential fish habitat (EFH) for the skate species complex and meeting the required habitat-related provisions of the Magnuson-Stevens Act, to be incorporated in the proposed Skate Fishery Management Plan (FMP). The Committee may select preferred alternatives to recommend to the full Council. The Committee will also review technical advice and options developed by the Council's EFH Technical Team, Groundfish Plan Development Team (PDT), and Scallop PDT on ways to comply with the habitat-related provisions of the Magnuson-Stevens Act in Amendment 10 to the Sea Scallop FMP. The Committee may develop additional options to be considered by the Council, and they may develop recommendations as to which of the options developed by the PDTs should be fully analyzed in the Amendment 10 Draft Environmental Impact Statement.

Monday, February 25, 2002 at 9:30 a.m.—Joint Skate Oversight Committee and Advisory Panel Meeting.

Location: Sheraton Ferncroft, 50 Ferncroft Road, Danvers, MA 01923; telephone: (978) 777–2500.

The committee and advisory panel will review and approve Draft Skate FMP and Environmental Impact Statement (EIS) and select preferred alternatives for public hearings. Also on the agenda is the review and approval of the Draft Skate FMP Public Hearing Document. They will also review timeline and schedule for Skate FMP public hearings.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: January 25, 2002.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 02–2263 Filed 1–29–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 121901C]

Permits; Foreign Fishing; Correction

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of receipt of foreign fishing applications; correction.

SUMMARY: NMFS published for public review and comment a summary of applications submitted by the Government of the Russian Federation requesting authorization to conduct fishing operations in the U.S. Exclusive Economic Zone in 2002 under provisions of the Magnuson-Stevens Fishery Conservation and Management Act. The document contained incorrect dates.

FOR FURTHER INFORMATION CONTACT: Robert A. Dickinson, Office of Sustainable Fisheries, (301) 713–2276.

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of December 28, 2001, in FR Doc. 01–31975, make the following corrections:

1. On page 67228, in the third column, under the heading, **SUPPLEMENTARY INFORMATION**, in the fifth line of the second paragraph, ''(JV) operations in 2001'' should read ''(JV) operations in 2002.''

2. On page 67229, in the first column, in the fifth line, ''vessels in 2001.'' should read ''vessels in 2002.''

Dated: January 24, 2002.

Jonathan M. Kurland,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 02–2260 Filed 1–29–02; 8:45 am]

BILLING CODE 3510–22–S

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Privacy Act of 1974, as Amended; System of Records

AGENCY: Corporation for National and Community Service.

ACTION: Notice of amended system of records.

SUMMARY: Notice is hereby given that in accordance with the Privacy Act of 1974, as amended, 5 U.S.C. 552a(e)(4), (''the Act''), the Corporation for National and Community Service hereby publishes a notice of its amended system of records due to minor changes to the current system of records as set forth below. Title 5 U.S.C. 552a(e)(4) and (11) provides that the public be given 30 days to comment on the amended system of records. The Office of Management and Budget (OMB), which has oversight responsibilities under the Privacy Act, requires 40 days to conclude its review of the amended system of records.

EFFECTIVE DATES: The proposed changes will be effective without further notice on March 14, 2002, unless comments are received which result in a contrary determination.

ADDRESSES: Comments should be addressed to the Corporation for National and Community Service, Office of Administrative and Management Services, Attn: Denise Moss, Corporation Records Liaison Officer, 1201 New York Avenue, NW., Washington, DC, 20525.

FOR FURTHER INFORMATION CONTACT: Denise Moss, Corporation Records Liaison Officer, 202–606–5000, extension 384. A copy of this amended system of records may be obtained in an alternate format by calling: TDD, 202–606–5256, or by writing to the Corporation for National and Community Service, Office of Administrative and Management Services, Attn: Corporation Records Liaison Officer, 1201 New York Avenue, NW., Washington, DC, 20525.

SUPPLEMENTARY INFORMATION: The Corporation publishes the following notice of its system of records: Notice of System of Records—Preliminary Statement.

Corporation—when used in the notice refers to Corporation for National and Community Service.

AmeriCorps—when used in the notice refers to the Volunteers In Service To America (VISTA) program, the National Civilian Community Corps (NCCC) program, the Leaders program, or the state and national program.

Operating Units—The names of the operating units within the Corporation to which a particular system of records pertains are listed under the system manager and address section of each system notice.

Official Personnel Files—Official personnel files of Federal employees in the General Schedule and the Corporation's Alternative Personnel System, in the custody of the Corporation are considered the property of the Office of Personnel Management (OPM). Access to such files shall be in accordance with such notices published by OPM. Access to such files in the custody of the Corporation will be granted to individuals to whom such files pertain upon request to the Corporation for National and Community Service, Director, Human Resources, 1201 New York Avenue, NW., Washington, DC, 20525.

Various offices in the Corporation maintain files which contain copies of miscellaneous personnel material affecting Corporation employees. These include copies of standard personnel forms, evaluation forms, etc. These files are kept only for immediate office reference and are considered by the Corporation to be part of the personnel file system. The Corporation's internal policy provides that such information is a part of the general personnel files and can be disclosed only through the Director, Human Resources, in order that he or she may ensure that any material to be disclosed is relevant, current, and fair to the individual employees. Also, it is the policy of the Corporation to limit the use of such files and to encourage the destruction of as many as possible.

Description of changes: Changes made to the Corporation's system of records are considered to be minor in nature consisting of several address updates. Other changes are purely technical in nature consisting of: (1) Descriptive changes from ''member'' to ''he/she''; (2) Inclusion of field records at Service Centers, State Offices, and NCCC Campus locations in the Categories sections of Corporation 7; (3) Clarification of Categories of Records and routine uses for records listed in Corporation 5, 6, 11, and 14.

Statement of General Routine Uses—The following general routine uses are incorporated by this reference into each system of records set forth herein, unless specifically limited in the system description.

1. In the event that a record in a system of records maintained by the Corporation indicates, either by itself or in combination with other information in the Corporation's possession, a violation or potential violation of the law (whether civil, criminal, or regulatory in nature, and whether arising by statute or by regulation, rule or order issued pursuant thereto), that record may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation, or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto. Such referral shall include, and be deemed to authorize: (1) Any and all appropriate and necessary uses of such records in a court of law or before an administrative board or hearing; and (2) such other interagency referrals as may be necessary to carry out the receiving agencies' assigned law enforcement duties.

2. A record may be disclosed as a routine use to designated officers and employees of other agencies and departments of the Federal government having an interest in the individual for employment purposes including the hiring or retention of any employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter involved, provided, however, that other than information furnished for the issuance of authorized security clearances, information divulged hereunder as to full-time volunteers under Title I of the Domestic Volunteer Service Act of 1973, as amended (42 U.S.C. 4951), and the National and Community Service Act of 1990, as amended, shall be limited to the provision of dates of service and a standard description of service as heretofore provided by the Corporation.

3. A record may be disclosed as a routine use in the course of presenting evidence to a court, magistrate or administrative tribunal of appropriate jurisdiction and such disclosure may include disclosures to opposing counsel in the course of settlement negotiations.

4. A record may be disclosed as a routine use to a member of Congress, or staff acting upon the constituent's behalf, when the member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

5. Information from certain systems of records, especially those relating to applicants for Federal employment or volunteer service, may be disclosed as a routine use to designated officers and employees of other agencies of the Federal government for the purpose of obtaining information as to suitability qualifications and loyalty to the United States Government.

6. Information from a system of records may be disclosed to any source from which information is requested in the course of an investigation to the extent necessary to identify the

individual, inform the source of the nature and purpose of the investigation, and to identify the type of information requested.

7. Information in any system of records may be used as a data source, for management information, for the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related personnel management functions or manpower studies. Information may also be disclosed to respond to general requests for statistical information (without personal identification of individuals) under the Freedom of Information Act.

8. A record from any system of records may be disclosed as a routine use of the National Archives and Records Administration in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

9. A record may be disclosed to a Federal or state grand jury agent pursuant to a Federal or state grand jury subpoena or prosecution request that such record be released for the purpose of its introduction to a grand jury.

10. A record may be referred to suspension/debarment authorities, internal to the Corporation, when the record released is germane to a determination of the propriety or necessity for a suspension or debarment action.

11. A record may be disclosed to a contractor, grantee or other recipient of Federal funds when the record to be released reflects serious inadequacies with the recipient's personnel, and disclosure of the record is for the purpose of permitting the recipient to effect corrective action in the Government's best interests.

12. A record may be disclosed to a contractor, grantee or other recipient of Federal funds when the recipient has incurred an indebtedness to the Government through its receipt of Government funds, and release of the record is for the purpose of allowing the debtor to effect a collection against a third party.

13. Information in a system of records may be disclosed to ''Consumer reporting agencies'' (as defined in the Fair Credit Reporting Act, 14 U.S.C. 1681a(f), or the Federal Claims Collection Act of 1966, 31 U.S.C. 3701(a)(3)), the U.S. Department of the Treasury or other Federal agencies maintaining debt servicing centers, and to private collection contractors as a routine use for the purpose of collecting a debt owed to the Federal government as provided in regulations promulgated by the Corporation.

14. The names, social security numbers, home addresses, dates of birth, dates of hire, quarterly earnings, employer identifying information, and State of hire of employees may be disclosed to the: (a) Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services Federal Parent Locator System (FPLS), and Federal Tax Offset System for use in locating individuals and identifying their income sources to establish paternity, establishing and modifying orders of child support, identifying sources of income, and for other child support enforcement action; (b) Office of Child Support Enforcement for release to the Social Security Administration for verifying social security numbers in connection with the operation of the FPLS by the Office of Child Support Enforcement; and (3) Office of Child Support Enforcement for release to the U.S. Department of the Treasury for payroll and savings bonds and other deduction purposes, and for purposes of administering the Earned Income Tax Credit Program (Section 32, Internal Revenue Code of 1986), and verifying a claim with respect to employment on a tax return, as required by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub.L. 104–193).

15. A record may be disclosed as a routine use to a contractor, expert, or consultant of the Corporation (or an office within the Corporation) when the purpose of the release is in order to perform a survey, audit, or other review of the Corporation's procedures and operations.

Locations of Corporation Service Centers/State Offices—The Corporation maintains five Service Centers with State Offices within their service areas. The Services Centers, their addresses, and the States within their service areas are listed below. In the event of any doubt as to whether a record is maintained in a Service Center or State Office, a query should be directed to the address of the Service Center Director for the appropriate state under their jurisdiction where the volunteer performed their service as listed below. The Service Center Director shall furnish all assistance necessary to locate a specified record.

Atlantic Service Center, 801 Arch Street, Suite 103, Philadelphia, PA 19107–2416 (Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Puerto Rico, Rhode Island, Vermont, and the Virgin Islands).

Southern Service Center, 60 Forsyth, Street SW, Suite. 3M40, Atlanta, GA 30303–3201 (Alabama, District of Columbia, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia).

North Central Service Center, Metcalfe Bldg., 77 West Jackson Blvd., Suite 442, Chicago, IL 60604–3511 (Illinois, Indiana, Iowa, Michigan, Minnesota, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin).

Southwest Service Center, 1999 Bryan Street, Suite 2050, Dallas, TX 75201 (Arizona, Arkansas, Colorado, Kansas, Louisiana, Missouri, New Mexico, Oklahoma, and Texas).

Pacific Service Center, 2201 Broadway, Suite 510, Oakland CA 94612–3024 (Alaska, American Samoa, California, Guam, Hawaii, Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming).

Notification—Individuals may inquire whether any system of records contains information pertaining to them by addressing the request to the specific Records Liaison Officer for each file category in writing. Such request should include the name and address of the individual, his or her social security number, any relevant data concerning the information sought, and, where possible, the place of assignment or employment, etc. In case of any doubt as to which system contains a record, interested individuals should contact the Corporation for National and Community Service, Office of Administrative and Management Services, Attn: Records Liaison Officer, 1201 New York Avenue, NW, Washington, DC, 20525, which has overall supervision of records systems and will provide assistance in locating and/or identifying appropriate systems.

Access and Contest—In response to a written request by an individual, the appropriate Records Liaison Officer will arrange for access to the requested record or advise the requester if no record exists. If an individual wishes to contest the content of any record, he or she may do so by addressing a written request to the State Program Director in the state where the member performed their assigned duties. If the State Program Director determines that a request to amend an individual's record should be denied, the State Program Director shall provide all necessary information regarding the request to the Privacy Act Officer, who is the Corporation's initial denial authority.

Locations of Corporation AmeriCorps National Civilian Community Corps

Campuses—The Corporation maintains five AmeriCorps*National Civilian Community Corps Campuses (NCCC) under its jurisdiction. The Campuses, and their addresses are listed below. In the event there is any doubt as to whether a record is maintained at a campus location, questions should be directed to the address of the AmeriCorps*NCCC Regional Campus Director for the appropriate campus location where the volunteer performed their service as listed below. The Regional Campus Director shall furnish all assistance necessary to locate a specified record.

*AmeriCorps*NCCC Capitol Region Campus,* 2 D.C. Village Lane, S.W. Washington, D.C., 20032.

*AmeriCorps*NCCC Northeast Campus,* VA Medical Center, Building 15, Room 9, Perry Point, MD 21902–0027.

*AmeriCorps*NCCC Southeast Campus,* 2231 South Hopson Avenue, Charleston, S.C. 29405–2430.

*AmeriCorps*NCCC Central Campus,* 1059 Alton Way, Bldg 758, Room 213, Denver, CO 80230.

*AmeriCorps*NCCC Western Campus,* 3427 Laurel Street, McClellan, CA 95652.

Access and Contest—In response to a written request by an individual, the appropriate Records Liaison Officer arranges for access to the requested record or advises the requester if no record exists. If an individual wishes to contest the content of any record, he or she may do so by addressing a written request to the AmeriCorps*NCCC Regional Campus Director, located at the pertinent address for each campus location as listed above. If the Regional Campus Director determines that a request to amend an individual's record should be denied, the Regional Campus Director shall provide all necessary information regarding the request and his or her reason for the denial to the Privacy Act Officer, who is the Corporation's initial denial authority.

Location of the Corporation AmeriCorps*VISTA Alumni Office—The AmeriCorps*VISTA Alumni Office is located at the Corporation's Headquarters in Washington, D.C. This office maintains hard copy records, and is in the process of developing a more permanent electronic history of former VISTA and AmeriCorps*VISTA members.

Notification—Members may inquire whether this system of records contains information pertaining to them by addressing their request to the Corporation for National and Community Service, Attn: Alumni Coordinator, 1201 New York Avenue, NW, Washington, DC, 20525. Such request should include the member's name, social security number, and approximate dates of volunteer service.

Access and Contest—In response to a written request by a member, the Alumni Coordinator will arrange for access to the requested record or advise the requester if no record exists. If an individual wishes to contest the content of any record, he or she may do so by addressing a written request to the Corporation for National and Community Service, Attn: Alumni Coordinator, 1201 New York Avenue, NW, Washington, DC, 20525. If the Alumni Coordinator determines that the request to amend a member's record should be denied, the Alumni Coordinator shall provide all necessary information regarding the request and his or her reason for the denial to the Privacy Act Officer, who is the Corporation's initial denial authority.

Listing of System of Records

Momentum Financials Open Obligations and Automated Disbursement Files—Corporation-1
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CORPORATION-1

SYSTEM NAME:

Momentum Financials Open Obligations and Automated Disbursement Files

SYSTEM LOCATION:

Office of Accounting and Financial Management Services, Corporation for National and Community Service, 1201 New York Avenue, NW, Washington, DC, 20525.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals to whom the agency owes money.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name of payee, address, ABA routing number, financial institution name and address, depositor account number, taxpayer identification number, amount owed, date of liability, amount paid, schedule number authorizing the U.S. Department of the Treasury to issue payment and returned or cancelled payments.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Domestic Volunteer Service Act of 1973, as amended; the National and Community Service Act of 1990, as amended, and the Budget and Accounting Procedures Act of 1950, as amended; the Chief Financial Officer Act of 1990; and the Debt Collection Improvement Act of 1996.

PURPOSE(S):

To maintain a current record of amounts owed and paid by the Corporation.

ROUTINE USES OF RECORDS IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See General Routine Uses contained in Preliminary Statement. Data is also released to the Internal Revenue Service in accordance with the Internal Revenue Code.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained electronically, and file folders are stored in locked metal file cabinets.

RETRIEVABILITY:

Hardcopy records are indexed alphabetically by name and electronic records may be accessed by name or taxpayer identification number.

SAFEGUARDS:

Records are available only to staff in the Office of Accounting and Financial Management Services and other appropriate Corporation officials with the need for such records in the performance of their duties.

RETENTION AND DISPOSAL:

Hardcopy records are held for three (3) years and then retired to the Federal

Records Center. Electronic records are archived periodically.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Accounting and Financial Management Services, Corporation for National and Community Service, 1201 New York Avenue, N.W., Washington, DC, 20525.

NOTIFICATION PROCEDURE:

To determine whether there is a record in the system about individual, that individual should submit a request in writing to the Records Liaison Officer giving name, taxpayer identification number, and address.

RECORD ACCESS PROCEDURES:

See Notification procedures.

CONTESTING RECORD PROCEDURES:

Anyone desiring to contest or amend information contained in this system should write to the Records Liaison Officer at the address given and set forth the basis for which the record is believed to be incomplete or incorrect.

RECORD SOURCE CATEGORIES:

Data in this system is obtained from documents submitted by individuals covered by the system as well as documents issued by Corporation officials involved with managing and disbursing funds.

EXEMPTION CLAIMED FOR THE SYSTEM:

None.

CORPORATION–2

SYSTEM NAME:

Momentum Financials Accounts Receivable Files.

SYSTEM LOCATION:

Office of Accounting and Financial Management Services, Corporation for National and Community Service, 1201 New York Avenue, N.W., Washington, DC, 20525.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM.

Individuals owing money to the Corporation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name of debtor, address, taxpayer identification number, amount owed, date of liability, and amount collected or amount forwarded to the U.S. Treasury for further collection action as mandated by DCIA of 1996.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Domestic Volunteer Service Act of 1973, as amended; the National and Community Service Act of 1990, as amended; the Budget and Accounting Procedures Act of 1950, as amended, and the Debt Collection Improvement Act of 1996.

PURPOSE(S):

To maintain a current record of amounts owed and paid to the Corporation.

ROUTINE USES OF RECORDS IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See General Routine Uses contained in Preliminary Statement. Data may be disclosed to the U.S. Department of Justice for litigation action; the U.S. Department of the Treasury to pursue further collection action when the Corporation is unable to collect a debt through its own efforts and/or recommended write-off; or to the General Accounting Office in connection with inquiries, audits or investigations related to the Corporation's debt activities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders which are stored in locked metal file cabinets.

RETRIEVABILITY:

Records are indexed alphabetically by name.

SAFEGUARDS:

Records are available only to staff in the Office of Accounting and Financial Management Services, other authorized Corporation officials with the need for such records in the performance of their duties or forwarded to the U.S. Treasury for further collection action.

RETENTION AND DISPOSAL:

Records are held for three (3) years and then retired to the Federal Records Center.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Accounting and Financial Management Services, Corporation for National and Community Service, 1201 New York Avenue, NW., Washington, DC, 20525.

NOTIFICATION PROCEDURE:

To determine whether there is a record in the system about an individual, that individual should submit a request in writing to the Records Liaison Officer giving name, taxpayer identification number, and address.

RECORD ACCESS PROCEDURES:

See Notification procedures.

CONTESTING RECORD PROCEDURES:

Anyone desiring to contest or amend information contained in this system should write to the Records Liaison Officer and set forth the basis for which the record is believed to be incomplete or incorrect.

RECORD SOURCE CATEGORIES:

Data in this system is obtained from documents submitted by individuals covered by the system as well as documents issued by Corporation officials involved with managing and collecting debts.

EXEMPTION CLAIMED FOR THE SYSTEM:

None.

CORPORATION-3

SYSTEM NAME:

Domestic Full-time Member Census Master File.

SYSTEM LOCATION:

Corporation for National and Community Service, AmeriCorps*VISTA, 1201 New York Avenue, NW., Washington, DC 20525.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any person who has served as a VISTA, or an AmeriCorps*VISTA member.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records maintained contain information extracted from the member's application, information about the member's period of service, and information about the member's history with the Corporation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Domestic Volunteer Service Act of 1973, as amended.

PURPOSE(S):

The system of records was established to maintain service histories on all former VISTA and AmeriCorps*VISTA members.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

See General Routine Uses contained in Preliminary Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in a locked metal cabinet in the AmeriCorps Office. Records are also stored in a temporary electronic database as the records are digitized on the Corporation's internal computer network.

RETRIEVABILITY:

The member's name and/or social security number retrieves records.

SAFEGUARDS:

The material is available only to Corporation and AmeriCorps*VISTA staff. It is not available to anyone else without the express written consent from the individual to release his/her information.

RETENTION AND DISPOSAL:

These records are maintained permanently.

SYSTEM MANAGER(S) AND ADDRESS:

Director of AmeriCorps*VISTA, Corporation for National and Community Service, 1201 New York Avenue, NW., Washington, DC 20525.

NOTIFICATION PROCEDURE:

A former member wishing to determine if this system contains his/her record should contact the Corporation for National and Community Service, Attn: Alumni Coordinator, 1201 New York Avenue, NW., Washington, DC 20525, and provide his/her name, last four digits of social security number, and approximate dates of volunteer service.

RECORDS ACCESS PROCEDURES:

A former member wishing access to information about his/her record should contact the Corporation for National and Community Services, Attn: Alumni Coordinator, 1201 New York Avenue, NW., Washington, DC 20525.

CONTESTING RECORDS PROCEDURES:

Any former member wishing to amend information maintained in his/her electronic record may do so by addressing such request to the Corporation for National and Community Service, Attn: Privacy Act Officer, 1201 New York Avenue, NW., Washington, DC 20525.

RECORD SOURCE CATEGORIES:

The data is obtained from the member's application, status change, payroll change notices, and the Alumni Interest Profile form.

EXEMPTION CLAIMED FOR THE SYSTEM:

None.

CORPORATION-4

SYSTEM NAME:

AmeriCorps Full-time Member Personnel Files.

SYSTEM LOCATION:

All Corporation State Offices, AmeriCorps*Leaders Office at Corporation Headquarters, and NCCC Regional Campuses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All active AmeriCorps members assigned under programs operated by the Corporation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records maintained contain member application and reference forms, member status and payroll information, member travel vouchers, future plans forms, including evaluation of service, and general correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Domestic Volunteer Service Act of 1973, as amended; the National and Community Service Act of 1990, as amended.

PURPOSE(S):

This system of records was established to maintain information on AmeriCorps members while they are assigned to their respective programs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The content of these records may be disclosed to the member's sponsor (VISTA) and other Corporation officials concerning placement, performance, support, and related matters for AmeriCorps members. Also, see General Routine Uses contained in Preliminary Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders which are stored in locked metal file cabinets.

RETRIEVABILITY:

Records are retrievable alphabetically by last name.

SAFEGUARDS:

Records in the system are available only to appropriate Corporation staff in State Offices, the AmeriCorps*Leaders Office at Corporation Headquarters, and Regional NCCC Campuses, and other appropriate officials of the Corporation with need for such records in the performance of their duties.

RETENTION AND DISPOSAL:

Records are retained for one (1) year after the member has terminated and then retired to the Federal Records Center where they are maintained for six (6) years.

SYSTEM MANAGER(S) AND ADDRESS:

The System Manager for VISTAs is the State Program Director at each Corporation State Office; the Regional NCCC Campus Director at each Campus location; and the Director, AmeriCorps*Leaders at Corporation Headquarters.

NOTIFICATION PROCEDURE:

A member wishing to determine if this system contains his/her records should contact the Corporation State Office (VISTAs) for the state where he/she performed his/her service; NCCC Campus where he/she was assigned, and the AmeriCorps*Leaders Office at Corporation Headquarters.

RECORD ACCESS PROCEDURES:

A member wishing access to information about his/her records should contact the particular Corporation State Office or NCCC Regional Campus where he/she was assigned or performed his/her service, and the AmeriCorps*Leaders Office at Corporation Headquarters, and provide name, social security number, and dates and location of where the member performed his/her service.

CONTESTING RECORD PROCEDURES:

A member wishing to amend his/her record may do so by addressing a request to the Corporation for National and Community Service, Attn: Privacy Act Officer, 1201 New York Avenue, NW., Washington, DC 20525.

RECORD SOURCES CATEGORIES:

The data is supplied by the member or through forms signed and executed by the member, or by Corporation personnel.

EXEMPTION CLAIMED FOR THE SYSTEM:

None.

CORPORATION-5

SYSTEM NAME:

Employee and Applicant Records Files.

SYSTEM LOCATION:

Human Resources, Corporation for National and Community Service, 1201 New York Avenue, NW., Washington, DC, 20525.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees; applicants; individuals involved in a grievance.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) The Staff Security Files contain investigative information regarding an individual's character, conduct or behavior in the community; loyalty to the U.S. Government; arrests and convictions, interviews with former

supervisors, coworkers, associates, educators, etc., about qualifications for a specific position; and inquires with law enforcement agencies, former employers, and educational institutions.

(2) The Grievance, Appeal and Arbitration Files contain copies of petitions, complaints, charges, responses, rebuttals, evidentiary materials, briefs, affidavits, statements, records of hearings and decisions or findings of fact and incidental correspondence regarding complaints and appeals.

(3) The Employees Indebtedness Files contain correspondence regarding alleged indebtedness of Corporation employees, including employees' responses, the Corporation's response to the employee and/or creditor and records relating to assistance to the employee in resolving indebtedness.

(4) The Employee Reemployment and Repromotion Priority Consideration Files list a person's name and the positions he or she was considered for, dates of consideration and a copy of the individual's latest Standard Form 171 and performance evaluation.

(5) The Performance Evaluation File consists of annual evaluations of employee performance prepared by supervisors and reviewed by supervisory reviewing officials, together with employee's comments.

(6) The Management-Union Records System consists of printouts of an employee's name, grade, series, title, or organizational entity and other data which determine inclusion or exclusion from the bargaining unit under the union contract. The printout also shows of dues withheld from each employee.

(7) The Human Resources Management Information System is a record of employees' tenure, benefits eligibility, awards, and other data used by Human Resources and Corporation managers.

(8) The Personnel History Program is a record of personnel actions made during employment, forwarding address, reason for leaving, social security number, date of birth, tenure, and information regarding date and reason for termination.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Domestic Volunteer Service Act of 1973, as amended; the National and Community Service Act of 1990, as amended; provisions of the Federal Personnel Manual; Executive Orders concerning management relations with employee organizations; Executive Order 10450; and various acts of Congress relating to personnel investigations as authorized by the Office of Personnel Management.

PURPOSE(S):

To provide an information system which supports the Corporation's personnel management program.

ROUTINE USES OR RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OR USERS AND THE PURPOSES OF SUCH USES:

As indicated below, the subsystems incorporate all or some of the published routine uses.

(1) Staff Security Files—in addition to routine uses, may be disclosed to the Office of Human Resources as part of the personnel investigation records system.

(2) Grievance, Appeal and Arbitration Records and Files—in addition to routine uses, may be disclosed to (a) OPM; the Merit Systems Protection Board; and the Office of Special Counsel, on request in conjunction with an appeal or with regard to personnel investigations regarding complaints of Federal Employees and applicants; and (b) to designated hearing examiners, arbitrators and third-party appellate authorities involved in hears or appeals.

(3) Employees Indebtedness Records and Files—may be released under our routine uses numbers 1 and 2, except that under routine use number 1, records may be released to an appropriate Federal agency or referred to a court or other administrative board on matters related to probation and parole.

(4) Employee Reemployment and Repromotion Priority Consideration Records and Files—in addition to routine uses, may be disclosed to: (a) OPM as part of the OPM personnel management evaluation system; and (b) to OPM for information concerning reemployment and repromotion rights.

(5) Performance Evaluation Files—in addition to our general routine uses, may be disclosed to an OPM request for information.

(6) Management Union Records—in addition to routine uses, may be disclosed to: (a) The Corporation employees' union for dues maintenance and inclusion in the bargaining unit; (b) the Treasury Department for preparation of dues withholding; and (c) OPM for management/labor relations reports.

(7) Human Resources Management Information System—used by Corporation officials for day-to-day work information; statistical reports without personal identifiers and for in-house reports relating to management. Information contained in this record is reflected in the individual's official personnel folder.

(8) Personnel History Program—is used by the Human Resources staff to verify service and for other day-to-day information.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records, including file folders, floppy disks, lists and loose-leaf binders, are stored in metal file cabinets with locks, or in secured rooms with access limited to employees whose duties require access. Where data is obtained via computer, controlled access is maintained through computer security control procedures.

RETRIEVABILITY:

Records are indexed by name or social security number.

SAFEGUARDS:

Records are available to Corporation employees having a need in the performance of their duties. Generally, Security Files are available only to office heads or security personnel.

RETENTION AND DISPOSAL:

After termination, death, retirement, or consideration of an applicant, the Staff Security Files are retained three (3) years and then retired to a Federal Records Center for twenty-seven (27) years and then destroyed. The Grievances, Appeals and Arbitration Files are retained indefinitely in Human Resources. The Employee Indebtedness Files are destroyed on a bi-annual basis or when the indebtedness is resolved. The Employee Reemployment and Repromotion Priority Consideration Files are retained according to length of reemployment or repromotion eligibility. The Performance Evaluation Files are retained one year or until superseded. The Human Resources Management Information System records and the Personnel Program data are kept indefinitely in the Office of Human Resources. The Management-Union Lists are retained until superseded by a corrected or updated list.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Human Resources, Corporation for National and Community Service, 1201 New York Avenue, NW., Washington, DC, 20525.

NOTIFICATION PROCEDURE:

See the Notification paragraph in the Preliminary Statement.

RECORD ACCESS PROCEDURES:

See the Notification paragraph in the Preliminary Statement.

CONTESTING RECORD SOURCE CATEGORIES:

Same as ''Record Access Procedures''.

RECORD SOURCE CATEGORIES:

From the individual; the official personnel folder; statistical and other information developed by Human Resources staff, such as the enter on duty date, and within grade increase due dates; agency supervisors and reviewing officials; individual employee fiscal and payroll records; alleged creditors of employees; witnesses to occurrences giving rise to a grievance, appeal, or other action; hearing records and affidavits and other documents used or usable in connection with grievance, appeal and arbitration hearings. Information contained in the Staff Security files is obtained from: (a) Applications and other personnel and security forms furnished by the individual; (b) investigative material furnished by other Federal agencies; (c) personal investigation or written inquiry from associates, police departments, courts, credit bureaus, medical records, probation officials, prison officials, and other sources as may be developed from the above; and (d) the individual.

EXEMPTION CLAIMED FOR THE SYSTEM:

None.

CORPORATION-6

SYSTEM NAME:

Employee/Member Occupational Injury/Illness Reports and Claim Files.

SYSTEM LOCATION:

Human Resources, Corporation for National and Community Service, 1201 New York Avenue, NW., Washington, DC, 20525.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Corporation staff and full-time volunteers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Reports of work related injuries and illnesses and claims for workers' compensation submitted to Department of Labor.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Employees Compensation Act & Occupational Safety and Health Administration Act.

PURPOSE(S):

To maintain injury/illness reports and to track workers' compensation claims on behalf of Corporation staff and full-time members.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To determine annual work related injury/illness data re: Corporation staff, and to identify trends, and to prepare and submit workers' compensation claims. Also, see General Routine Uses contained in Preliminary Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders which are locked in metal file cabinets.

RETRIEVABILITY:

Records are maintained alphabetically by name.

SAFEGUARDS:

Records are available to claimants and Corporation staff with a job related need.

RETENTION AND DISPOSAL:

Official files are kept seven (7) years following year of occurrence. Disposal is by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

OWCP Liaison Officer, Human Resources, Corporation for National and Community Service, 1201 New York Avenue, NW., Washington, DC, 20525.

NOTIFICATION PROCEDURE:

Claimant submits written request to the above address.

RECORD ACCESS PROCEDURES:

Requester should give OWCP claim number, but it is not mandatory. Requests may be submitted in the name of injured employee/volunteer.

CONTESTING RECORD PROCEDURES:

Claimant or injured employee/member may submit any data deemed relevant to the case to address listed.

RECORD SOURCE CATEGORIES:

Individual who suffers work related injury/illness submits any pertinent data necessary; medical reports, witness statements, time and attendance records, medical bills or legal briefs.

EXEMPTION CLAIMED FOR THE SYSTEM:

None.

CORPORATION-7

SYSTEM NAME:

Travel Files.

SYSTEM LOCATION:

Office of Administrative and Management Services, Travel Unit; Corporation for National and Community Service, 1201 New York Avenue, NW., Washington, DC, 20525. For field offices, travel files are kept at the operational location of each Service Center Director, State Director, and NCCC Campus Director.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Corporation Headquarters Staff, Consultants, Invitational Travelers, and all Corporation Relocated Staff.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individuals' records and special event records for Headquarters Staff, Field Staff. Travel files are located at each Corporation site.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Domestic Volunteer Service Act of 1973, as amended, and the National Community Service Act of 1990, as amended.

PURPOSE(S):

To maintain travel files on all persons traveling on official Corporation business.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See General Routine Uses contained in Preliminary Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Files are maintained in individual folders in a locked metal file cabinet when not in immediate use.

RETRIEVABILITY:

Individual's name in alphabetical order and Travel Authorization number.

SAFEGUARDS:

Access only to appropriate personnel and Corporation officials. The metal travel file cabinet is locked when not in use.

RETENTION AND DISPOSAL:

Retention three (3) years. Disposal of records is by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Travel Management Program Analyst, Office of Administrative and Management Services, Corporation for National and Community Service, 1201 New York Avenue, NW. Washington, DC 20525. For field offices, the System Manager is the Service Center Director, State Director, and NCCC Campus Director.

NOTIFICATION PROCEDURE:

Send to address listed.

RECORD ACCESS PROCEDURES:

Travel Management Program Analyst, Office of Administrative and Management Services, Corporation for National and Community Service, 1201 New York Avenue, NW., Washington,

DC 20525. For field offices, the System Manager is the Service Center Director, State Director, and NCCC Campus Director.

CONTESTING RECORD PROCEDURES:

Send to address listed.

RECORD SOURCE CATEGORIES:

Submitted by Corporation employees etc.

EXEMPTION CLAIMED FOR THE SYSTEM:

None.

CORPORATION–8

SYSTEM NAME:

AmeriCorps Member Individual Accounts.

SYSTEM LOCATION:

Corporation for National and Community Service, National Service Trust Operations, 1201 New York Avenue, NW., Washington DC 20525.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any person who has served or is serving as a member or other full-time, stipended member under a Corporation program.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records maintained contain information extracted from the application, information about the period of service, and information about the member's service history.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Domestic Volunteer Service Act of 1973, as amended, and the National and Community Service Act of 1990, as amended.

PURPOSE(S):

The system of records was established to maintain service histories on all current, former, and other full-time stipend volunteers serving in the Corporation programs and earning an education award.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

See General Routine Uses contained in Preliminary Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on magnetic tape, disks, electronic image, hard copy, and are kept in a locked room when not in use.

RETRIEVABILITY:

Records are retrieved by social security number.

SAFEGUARDS:

The material on tapes and disks is generally available only to the Corporation's Office of Information Technology and Accounting staff, and is so coded as to be unavailable to anyone else. Hard copy records are available only to Corporation staff with a need for such records in the performance of their duties.

RETENTION AND DISPOSAL:

These records are maintained for a period of (7) seven years from date the volunteer earns an education award and then forwarded to the Federal Records Center for (3) three years. Electronically imaged documents will be maintained permanently.

SYSTEM MANAGER(S) AND ADDRESS:

Director, National Service Trust Operations, Corporation for National and Community Service, 1201 New York Avenue, NW., Washington, DC 20525.

NOTIFICATION PROCEDURE:

A person wishing to determine if this system contains his/her records should contact the Corporation for National and Community Service, Director, National Service Trust Operations, 1201 New York Avenue, NW., Washington, DC 20525, and provide name, social security number, and dates of volunteer service.

RECORDS ACCESS PROCEDURES:

A person wishing access to information about their records should contact the Corporation for National and Community Services, Director, National Service Trust Operations, 1201 New York Avenue, NW., Washington, DC 20525.

CONTESTING RECORD PROCEDURES:

A person wishing to amend his/her record may do so by addressing such request to the Corporation for National and Community Service, Attn: Privacy Act Officer, 1201 New York Avenue, NW., Washington, DC 20525.

RECORD SOURCE CATEGORIES:

The data is obtained from enrollment and exit forms.

EXEMPTION CLAIMED FOR THE SYSTEM:

None.

CORPORATION–9

SYSTEM NAME:

Counselors' Report Files.

SYSTEM LOCATION:

Equal Opportunity Office, Corporation for National and Community Service, 1201 New York, Avenue, NW., Washington, DC 20525.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any employee or applicant for employment, service member, or applicant or trainee for volunteer or service status, or employee of a grantee who has contacted or requested a Corporation Equal Opportunity Counselor for counseling, but has not filed a formal discrimination complaint.

CATEGORIES OF RECORDS IN THE SYSTEM:

Counselors' Reports, Privacy Act notice, confidentiality agreement, notice to members of collective bargaining agreement, notice of final interview, notes and correspondence, and copies of personnel records or other documents relevant to the matter presented to the Counselor, and any other records relating to the counseling instance.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Titles VI and VII of the Civil Rights Act of 1964, as amended; Age Discrimination in Employment Act, as amended; Rehabilitation Act of 1973, as amended; Title IX of the Education Amendments of 1972, as amended; Domestic Volunteer Service Act of 1973, as amended; National and Community Service Act of 1990, as amended; and the Age Discrimination Act, as amended.

PURPOSE(S):

To enable Equal Opportunity Counselors to look into matters brought to their attention, provide counseling, attempt to resolve the matter, and document actions taken.

ROUTINE USES OR RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

1. Referral or disclosure: (a) To a Federal, state, or local agency charged with the responsibility of investigating, enforcing, or implementing the statute, rule, regulation, or order; (b) to an investigator, Counselor, grantee or other recipient of Federal financial assistance, or hearing officer or arbitrator charged with the above responsibilities; (c) any and all appropriate and necessary uses of such records in a court of law or before an administrative board or hearing; and (d) such other referrals as may be necessary to carry out the enforcement and implementation of the statutes, rules, regulations, or orders.

2. Disclosure to the Congressional committees having legislative jurisdiction over the program involved, including when actions are proposed to be undertaken by suspending or terminating or refusing to grant or to continue Federal financial assistance for violation of the statutes, rules, regulations, or orders for recipients of

Federal financial assistance from the Corporation.

3. Disclosure to any source, either private or governmental, to the extent necessary to secure from source information relevant to, and sought in furtherance of, a legitimate investigation or EO counseling matter.

4. Disclosure to a contractor, grantee or other recipient of Federal financial assistance, when the record to be released reflects serious inadequacies with the recipient's personnel, and disclosure of the record is for the purpose of permitting the recipient to effect corrective action in the Government's best interests.

5. Disclosure to any party pursuant to the receipt of a valid subpoena.

6. Disclosure during the course of presenting evidence to a court magistrate or administrative tribunal of appropriate jurisdiction and such disclosure may include disclosure to opposing counsel in the course of settlement negotiations.

7. Disclosure to a member of Congress submitting a request involving an individual who is a constituent of such member who has requested assistance from the member with respect to the subject matter of the record.

8. Information in any system of records may be used as a data source, for management information, for the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related personnel management functions or manpower studies. Information may also be disclosed to respond to general requests for statistical information (without personal identification of individuals) under the Freedom of Information Act.

9. Information in any system of records to be disclosed to a Congressional office, in response to an inquiry from any such office, made at the request of the individual to whom the record pertains.

10. A record from any system of records may be disclosed as a routine use of the National Archives and Records Administration, in records management inspection conducted under authority of 44 U.S.C. 209 and 290.

11. Referral to Federal, state, local and professional licensing authorities when the record to be released reflects on the moral, educational, or vocational qualifications of an individual seeking to be licensed.

12. Disclosure to the Office of Government Ethics (OGE) for any purpose consistent with OGE's mission, including the compilation of statistical data.

Note: The Agency-wide statement of general routine uses does not apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Files are maintained in folders or computer diskettes and locked in metal file cabinets when not in immediate use.

RETRIEVABILITY:

Retrievability is by the name of the person who contacted the Counselor.

SAFEGUARDS:

Records in the system are available only to appropriate personnel in the Office of Equal Opportunity and other designated officials of the Corporation with a need for such records in the performance of their duties.

RETENTION AND DISPOSAL:

Two (2) years after completion of counseling, the files are destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Equal Opportunity, Corporation for National and Community Service, 1201 New York Avenue, NW., Washington, DC 20525.

NOTIFICATION PROCEDURE:

Request by individuals on whether a record is maintained about himself or herself should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Request for access to these records should be addressed to the System Manager.

CONTESTING RECORD PROCEDURES:

Contest to information included in these records should be addressed to the System Manager.

RECORD SOURCE CATEGORIES:

Data in this system is obtained from the following categories of sources: (1) Aggrieved persons, witnesses, etc., in counseling matters; (2) Counselors' Reports; (3) Copies of documents relevant to any counseling matter; and (4) Correspondence.

EXEMPTION CLAIMED FOR THE SYSTEM:

None.

CORPORATION–10

SYSTEM NAME:

Discrimination Complaint Files.

SYSTEM LOCATION:

Equal Opportunity Office, Corporation for National and Community Service, 1201 New York Avenue, NW., Washington DC, 20525.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any employee or applicant for employment, AmeriCorps member or applicant or trainee for volunteer or service status, or employee of a grantee, or program beneficiary who has filed a formal complaint with, or against, the Corporation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Formal complaints, Reports of Investigation, Counseling documents, case decisions, and relevant correspondence, including settlement agreements.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Titles VI and VII of the Civil Rights Act of 1964, as amended; the Age Discrimination in Employment Act, as amended; the Rehabilitation Act of 1973, as amended; Title IX of the Education Amendments of 1972, as amended; the Domestic Volunteer Service Act of 1973, as amended; the National and Community Service Act of 1990, as amended; and the Age Discrimination Act, as amended.

PURPOSE(S):

To enable the Corporation to investigate and adjudicate complaints of discrimination.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Referral or disclosure: (a) To a Federal, state, or local agency charged with the responsibility of investigating, enforcing, or implementing the statute, rule, regulation, or order; (b) to an investigator, counselor, grantee or other recipient of Federal financial assistance or hearing officer or arbitrator charged with the above responsibilities; (c) any and all appropriate and necessary uses of such records in a court of law or before an administrative board or hearing; and (d) such other referrals as may be necessary to carry out the enforcement and implementation of the statutes, rules, regulations, or orders.

2. Disclosure to the Congressional committees having legislative oversight over the program involved, including when actions are proposed to be undertaken by suspending or terminating or refusing to grant or to continue Federal financial assistance for violation of the statutes, rules, regulations, or orders for recipients of Federal financial assistance from the Corporation.

3. Disclosure to any source, either private or governmental, to the extent

necessary to secure from source information relevant to, and sought in furtherance of, a legitimate investigation or EO counseling matter.

4. Disclosure to a contractor, grantee or other recipient of Federal financial assistance, when the record to be released reflects serious inadequacies with the recipient's personnel, and disclosure of the record is for the purpose of permitting the recipient to effect corrective action in the Government's best interests.

5. Disclosure to any party pursuant to the receipt of a valid subpoena.

6. Disclosure during the course of presenting evidence to a court, magistrate or administrative tribunal of appropriate jurisdiction and such disclosure may include disclosures to opposing counsel in the course settlement negotiations.

7. Disclosure to a member of Congress submitting a request involving an individual who has requested assistance from the member with respect to the subject matter of the record.

8. Information in any system of records may be used as a data source, for management information, for the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related personnel management functions or manpower studies. Information may also be disclosed to respond to general requests for statistical information (without personal identification of individuals) under the Freedom of Information Act.

9. A record from any system of records may be disclosed as a routine use of the National Archives and Records Administration, in records management inspections conducted under authority of 44 U.S.C. 2094 and 2906.

10. Referral to Federal, state, local and professional licensing authorities when the record to be released reflects on the moral, educational, or vocational qualifications of an individual seeking to be licensed.

11. Disclosure to the Office of Government Ethics (OGE) for any purpose consistent with OGE's mission, including the compilation of statistical data.

Note: The Agency-wide statement of general routine uses does not apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Files are maintained in folders or on computer diskettes which are locked in metal file cabinets when not in immediate use.

RETRIEVABILITY:

Files are retrieved by the complainant's name.

SAFEGUARDS:

Records in the system of records are available only to appropriate personnel in Equal Opportunity and other designated officials of the Corporation with a need of such records in the performance of their duties.

RETENTION AND DISPOSAL:

Records are destroyed four (4) years after the close of the case.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Equal Opportunity, Corporation for National and Community Service, 1201 New York Avenue, NW., Washington, DC., 20525.

NOTIFICATION PROCEDURE:

Request by individuals on whether a record is maintained about himself or herself should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Request for access to these records should be sent to the System Manager.

CONTESTING RECORD PROCEDURES:

Contest of information included in these records should be sent to the System Manger.

RECORD SOURCE CATEGORIES:

Data in this system is obtained from the following categories of sources: (1) Complainants, witnesses, etc., in discrimination complaints; (2) Reports of investigations and Counselors' Reports; (3) Copies of documents relevant to any EO investigation; (4) Records of hearings on complaint; and (5) Correspondence.

EXEMPTION CLAIMED FOR THE SYSTEM:

None.

CORPORATION-11

SYSTEM NAME:

Employee Pay and Leave Record Files.

SYSTEM LOCATION:

Human Resources, Corporation for National and Community Service, 1201 New York Avenue, NW., Washington, DC, 20525.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Corporation employees and former employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personnel actions including appointment, promotion and termination actions; savings bond applications; allotments; IRS tax withholdings, employment applications, and records regarding collections for overpayments; and time and attendance records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

GAO Policy and Procedures Manual; 31 U.S.C. 66(a); and the Budget and Accounting Procedures Act of 1950, as amended.

PURPOSE(S):

To provide a system whereby Corporation employees can track payroll and leave information.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information from these records is routinely provided: (1) To the U.S. Department of Treasury for payroll and savings bonds and other deduction purposes; (2) to the Internal Revenue Service for tax deductions; and (3) to participating insurance companies holding policies with respect to employees of the Corporation. Also, see General Routine Uses contained in Preliminary Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders in locked metal file cabinets. Individual Time and Attendance records maintained by designated agency timekeepers are stored in locked metal file cabinets.

RETRIEVABILITY:

Records are by name in alphabetical order.

SAFEGUARDS:

Records are available to Corporation employees with a job related need.

RETENTION AND DISPOSAL:

Records are maintained for three (3) years after the end of the fiscal year in which an employee terminates employment and then retired to the Federal Records Center in accordance with General Accounting Office instructions.

SYSTEM MANAGER(S) AND ADDRESS:

Payroll Supervisor, Corporation for National and Community Service, Human Resources, 1201 New York Avenue, NW., Washington, DC, 20525.

NOTIFICATION PROCEDURE:

See the Notification paragraph in the Preliminary Statement.

RECORD ACCESS PROCEDURES:

See the Access and Contest paragraph in the Preliminary Statement.

CONTESTING RECORD PROCEDURES:

See the Access and Contest paragraph in the Preliminary Statement.

RECORD SOURCE CATEGORIES:

Corporation employee to whom the record pertains.

EXEMPTION CLAIMED FOR THE SYSTEM:

None.

CORPORATION-12

SYSTEM NAME:

Freedom of Information Act and Privacy Act Request Files.

SYSTEM LOCATION:

Office of the Freedom of Information Act (FOIA)/Privacy Act (PA) Officer, Corporation for National and Community Service, 1201 New York Avenue, NW., Washington, DC, 20525.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who have submitted FOIA/PA requests.

CATEGORIES OF RECORDS IN THE SYSTEM:

Formal requests (FOIA/PA), research data, written decisions, and relevant correspondence, including final responses to the requesters.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Freedom of Information Act of 1966, as amended, and the Privacy Act of 1974, as amended.

PURPOSE(S):

To maintain files of FOIA/PA requests and the Corporation's responses.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See General Routine Uses contained in Preliminary Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders which are stored in locked metal file cabinets. Computerized files are maintained on the Corporation FOIA/PA Officer's computer.

RETRIEVABILITY:

Records are indexed by number and by year.

SAFEGUARDS:

Records in the system are available only to the Corporation FOIA/Privacy Act Officer or those officials authorized by the Corporation FOIA/Privacy Act Officer with a need for access of such records in the performance of their duties.

RETENTION AND DISPOSAL:

Records concerning requests and appeals are destroyed three (3) years after initial request.

SYSTEM MANAGER(S) AND ADDRESS:

Corporation FOIA/Privacy Act Officer, Corporation for National and Community Service, 1201 New York Avenue, NW., Washington, DC 20525.

NOTIFICATION PROCEDURE:

See Notification paragraph in the Preliminary Statement.

RECORD ACCESS PROCEDURES:

See Access and Consent paragraph in the Preliminary Statement.

CONTESTING RECORD PROCEDURES:

See Access and Contest paragraph in the Preliminary Statement.

RECORD SOURCE CATEGORIES:

Data in this system is obtained from documents submitted by individuals engaging in official FOIA/PA requests as well as from responses issued by officials of the Corporation.

EXEMPTION CLAIMED FOR THE SYSTEM:

None.

CORPORATION-13

SYSTEM NAME:

Legal Office Litigation/Correspondence Files.

SYSTEM LOCATION:

Office of the General Counsel, Corporation for National and Community Service, 1201 New York Avenue, NW., Washington, DC 20525.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals involved in litigation which requires General Counsel action.

CATEGORIES OF RECORDS IN THE SYSTEM:

Statements; affidavits/declarations; investigatory and administrative reports; personnel, financial, medical and business records; discovery and discovery responses; motions; orders, rulings; letters; messages; forms; reports; surveys; audits; summons; English translations of foreign documents; photographs; legal opinions; subpoenas; pleadings; memos; related correspondence; briefs; petitions; court records involving litigation; and related matters.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

These records are maintained under general authority of the Office of the General Counsel to represent the Corporation in connection with its dealings with its employees, and the general functions of the Office of the General Counsel to provide advice and counsel to the Chief Executive Officer of the Corporation and his or her staff.

PURPOSE(S):

To maintain files relating to litigation matters involving the Corporation.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To prepare correspondence and materials for litigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders which are stored in locked metal file cabinets. Computerized files are maintained on employee computers.

RETRIEVABILITY:

Name of individual and the year litigation commenced.

SAFEGUARDS:

Records are available only to employees assigned to the General Counsel Office or those officials authorized by the General Counsel with a need of such records in the performance of their duties.

RETENTION AND DISPOSAL:

Records will be maintained in the Office of the General Counsel for one (1) year after case closure. Records will then be sent to the Federal Records Center where they will be destroyed after ten (10) years.

SYSTEM MANAGER(S) AND ADDRESS:

General Counsel, Corporation for National and Community Service, 1201 New York Avenue, NW., Washington, DC 20525.

NOTIFICATION PROCEDURE:

Employees wishing to determine if this system contains records relating to them should contact the Corporation for National and Community Service, General Counsel Office, 1201 New York Avenue, NW., Washington, DC 20525.

RECORD ACCESS PROCEDURES:

Litigation files are not subject to access. Other files may be accessed in accordance with agency-wide regulations.

CONTESTING RECORD PROCEDURES:

Contest of information included in these records should be sent to the System Manager.

RECORD SOURCE CATEGORIES:

Data is obtained from the following categories of sources: (1) Corporation employees; (2) Correspondence and reports from persons and agencies dealing with the agency and its employees; (3) Work product and research by lawyers of the office; and (4) Court records.

EXEMPTION CLAIMED FOR THE SYSTEM:

Any information compiled in reasonable anticipation of a civil action or proceeding. 5 U.S.C. 552a(d)(5).

CORPORATION-14

SYSTEM NAME:

Merit Promotion Plan Files.

SYSTEM LOCATION:

Human Resources, Corporation for National and Community Service, 1201 New York Avenue, NW., Washington, DC 20525.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for employment with the Corporation.

CATEGORIES OF RECORDS IN THE SYSTEM:

These files contain copies of applications for employment (SF–612 or resumes) submitted by applicants and other background information regarding qualifications of the applicant for positions in the Corporation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Domestic Volunteer Service Act of 1973, as amended, and the National Community Service Act of 1990, as amended.

PURPOSE(S):

To provide documentation necessary to support the Corporation's merit selection process.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The contents of these files are used as follows: (1) To Human Resources regarding suitability or qualifications of an applicant for employment; and (2) to any source which requests information in the course of an inquiry regarding the qualifications of an applicant to identify the individual, inform the source of the nature and purpose of the inquiry, and to identify the type of information requested. Also, see General Routine Uses contained in Preliminary Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders in locked metal file cabinets.

RETRIEVABILITY:

Records are indexed by vacancy announcement number.

SAFEGUARDS:

Records are available to Corporation employees with a job related need.

RETENTION AND DISPOSAL:

Records are destroyed when applications are two (2) years old. Applications which resulted in appointment are filed in the Official Personnel Folder and subsequently retired to the Federal Records Center, St. Louis, Missouri.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Human Resources, Corporation for National and Community Service, 1201 New York Avenue, N.W., Washington, D.C., 20525.

NOTIFICATION PROCEDURE:

See the Notification paragraph in the Preliminary Statement.

RECORD ACCESS PROCEDURES:

See the Access and Contest paragraph in the Preliminary Statement.

CONTESTING RECORD CATEGORIES:

Same as Record Access Procedures category.

RECORD SOURCE CATEGORIES:

Information is obtained from the following categories of sources: applications and other personnel forms furnished by the individual; written references from sources disclosed by the applicant, such as, employers and schools.

EXEMPTION CLAIMED FOR THE SYSTEM:

None.

CORPORATION-15

SYSTEM NAME:

Office of the Inspector General Investigative Files.

SYSTEM LOCATION:

Office of the Inspector General, Corporation for National and Community Service, 1201 New York Avenue, N.W., Washington, D.C., 20525.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Subjects, complainants, and witnesses of investigations, complaints, or other matters, including (but not necessarily limited to) former and present Corporation employees; former and present Corporation grant recipients, applicants, consultants, contractors and subcontractors and their employees; and other parties doing business or proposing to conduct business with the Corporation or its recipients, contractors and subcontractors.

CATEGORIES OF RECORDS IN THE SYSTEM:

All correspondence relevant to the investigation; all internal staff memoranda; information provided by subjects, witnesses, and governmental investigatory or law enforcement organizations; copies of all subpoenas issued during the investigation; affidavits, statements from witnesses, memoranda of interviews, transcripts of testimony taken in the investigation and accompanying exhibits; documents and records or copies obtained during the investigation; working papers of the staff, investigative notes, and other documents and records relating to the investigation; information about criminal, civil, or administrative referrals; and opening reports, progress reports, and closing reports, with recommendations for corrective action.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Inspector General Act of 1978, as amended, 5 U.S.C. app. 3.

PURPOSE(S):

To maintain files of investigative and reporting activities carried out by the Office of the Inspector General.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Referral to Federal, state, local and foreign investigative or prospective authorities. A record in the system of records, which indicates either by itself or in combination with other information within the Corporation's possession, a violation or potential violation of law, whether civil, criminal or regulatory and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, may be disclosed, as a routine use, to the appropriate Federal, foreign, state or local agency or professional organization charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing or investigating or prosecuting such violation or charged with enforcing or implementing the statue or rule, regulation or order issued pursuant thereto.

2. Disclosure to a Federal or state grand jury agent pursuant to a Federal

or state grand jury subpoena or prosecution request that such record be released for the purpose of its introduction to a grand jury.

3. Referral to suspension/debarment authorities, internal to the Corporation, when the record released is germane to a determination of the propriety of, or necessity for, a suspension or debarment action.

4. Referral to Federal, state, local and professional licensing authorities when the record to be released reflects on the moral, educational, or vocational qualifications of an individual holding a license or seeking to be licensed.

5. Disclosure to a contractor, grantee, or subgrantee or other recipient of Federal funds, when the record to be released reflects serious inadequacies with the recipient's personnel, and disclosure of the record is for the purpose of permitting the recipient to effect corrective action in the Government's best interest.

6. Disclosure to a contractor, grantee, or subgrantee or other recipient of Federal funds, when the recipient has incurred an indebtedness to the Government through its receipt of Government funds, and release of the record is for the purpose of allowing the debtor to effect a collection against a third party.

7. Disclosure to any source, either private or governmental, to the extent necessary to secure from such source information relevant to, and sought in furtherance of, a legitimate investigation or audit.

8. Disclosure to a domestic, foreign or international governmental agency considering personnel or other internal actions, such as assignment, hiring, promotion, or retention of an individual, issuance of a security clearance, reporting an investigation of an individual, award or other benefit, to the extent that the information is relevant to such agency's decision on the matter.

9. Disclosure to the Office of Government Ethics (OGE) for any purpose consistent with OGE's mission, including the compilation of statistical data, or the mission of the OIG.

10. Disclosure to a Board of Contract Appeals, the General Accounting Office or other tribunal hearing a bid protest involving a Corporation or OIG procurement.

11. Disclosure to a domestic, foreign or international government law enforcement agency maintaining civil, criminal or other relevant enforcement information, or other pertinent information, in order that the OIG may obtain information relevant to a decision concerning the assignment, hiring, promotion, or retention of an individual, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

12. Disclosure to the Department of Justice in order to obtain the Department's advice regarding OIG's obligations under the Freedom of Information Act.

13. Disclosure to the Office of Management and Budget (OMB) in order to obtain OMB's advice regarding OIG's obligations under the Privacy Act.

14. Disclosure to a member of Congress making a request at the behest of a party protected under the Privacy Act, when the member of Congress informs the appropriate official that the individual to whom the record pertains has authorized the member of Congress to have access.

15. Disclosure to any Federal agency pursuant to the receipt of a valid subpoena.

16. Disclosure to the U.S. Department of the Treasury or the U.S. Department of Justice when the Corporation or the OIG is seeking to obtain taxpayer information from the Internal Revenue Service.

17. Disclosure to debt collection contractors for the purpose of collecting delinquent debts as authorized by the Debt Collection Improvement Act of 1996 (31 U.S.C. 3713).

18. Disclosure to a ''consumer reporting agency'' as that term is defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)), and the Federal Claims Collection Act of 1966 (31 U.S.C. 3701 (a)(3)), in order to obtain information in the course of an investigation or audit.

19. Disclosure to Corporation or OIG counsel, an administrative hearing tribunal, or counsel to the adverse party, in Program Fraud Civil Remedies Act or other litigation.

20. Disclosure to a Federal, State, or local agency for use in computer matching programs to prevent and detect fraud and abuse in benefit or other programs, to support civil and criminal law enforcement activities of those agencies and their components, and to collect debts and overpayments owed to those agencies and their components.

21. Disclosure to any court, magistrate or administrative authority during the course of any litigation or settlement negotiations in which the Corporation is a party or has an interest. A record in the system of records may be disclosed in a proceeding before a court or adjudicative body before which the Corporation or the OIG is authorized to appear, or in the course of settlement negotiations involving—

(1) OIG, the Corporation, or any component thereof;

(2) Any employee of the OIG or the Corporation in his or her official capacity;

(3) Any employee of the Corporation in his or her individual capacity, where the Government has agreed to represent the employee; or

(4) The United States, where the OIG determines that the litigation is likely to affect the OIG or the Corporation or any of its components.

22. Disclosure to OIG's or the Corporation's legal representative, including the U.S. Department of Justice and other outside legal counsel, when the OIG or the Corporation is a party in actual or anticipated litigation or has an interest in such litigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The Office of the Inspector General Investigative Files consist of paper records maintained in folders and an automated data base maintained on computer diskettes. The folders and diskettes are stored in locked metal file cabinets. The file cabinets are located in the Office of the Inspector General.

RETRIEVABILITY:

The records are retrieved by a unique control number assigned to each investigation.

SAFEGUARD:

Records in the system are available only to those persons whose duties require such access. The records are kept in limited access areas during duty hours and in locked file cabinets in a locked office at all other times.

RETENTION AND DISPOSAL:

Records will be held in the office pursuant to General Records Schedule 22, June 1988, and will be destroyed by shredding or burning when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Inspector General, Office of the Inspector General, Corporation for National and Community Service, 1201 New York Avenue, NW., Washington, DC 20525.

NOTIFICATION PROCEDURE:

To determine whether this system of records contains a record pertaining to the requesting individual, the individual should write to the System Manager furnishing his or her name, address, telephone number, and social security number.

RECORD ACCESS PROCEDURES:

See Notification Procedures.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in this system of records should write to the System Manager, setting forth the basis for which the individual believes the record is incomplete, irrelevant, incorrect or untimely.

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from: Corporation staff and official Corporation records; current and former employees, contractors, grantees and their employees; subgrantees and their employees; AmeriCorps members or former members in Corporation-funded programs; and non-Corporation persons. Individuals to be interviewed and records to be examined are selected based on the nature of the allegations being investigated.

EXEMPTION CLAIMED FOR THE SYSTEM:

The Office of Inspector General published exemptions under 5 U.S.C. 552a(j) and (k).

CORPORATION-16

SYSTEM NAME:

Travel Authorization Files.

SYSTEM LOCATION:

Office of Accounting and Financial Management Services, Corporation for National and Community Service, 1201 New York Avenue, NW., Washington, DC, 20525.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Corporation employees or any other person invited to travel at the expense of the Corporation.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records consist of travel authorizations, vouchers, receipts, payment records, and other materials related to official travel.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Domestic Volunteer Service Act of 1973, as amended; the National and Community Service Act of 1990, as amended, and the Budget and Accounting Procedures Act of 1950, as amended.

PURPOSE(S):

To record and manage the payment of expenses for official travel.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See General Routine Uses contained in Preliminary Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders in locked metal file cabinets.

RETRIEVABILITY:

Records are indexed alphabetically by name.

SAFEGUARDS:

Records are available only to staff in the Office of Accounting and Financial Management Services, and other appropriate Corporation officials with the need for such records in the performance of their duties.

RETENTION AND DISPOSAL:

Records are held for three (3) years and then retired to the Federal Records Center.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Accounting and Financial Management Services, Corporation for National and Community Service, 1201 New York Avenue NW., Washington, DC 20525.

NOTIFICATION PROCEDURE:

To determine whether there is a record in the system about an individual, that individual should submit a request in writing to the System Manager giving name, taxpayer identification number, and address.

RECORD ACCESS PROCEDURES:

See Notification procedures.

CONTESTING RECORD PROCEDURES:

Anyone desiring to contest or amend information contained in this system should write to the System Manager and set forth the basis for which the record is believed to be incomplete or incorrect.

RECORD SOURCE CATEGORIES:

Data in this system is obtained from documents submitted by individuals engaging in official travel as well as documents issued by the Corporation officials involved with authorizing and managing travel.

EXEMPTION CLAIMED FOR THE SYSTEM:

None.

CORPORATION-17

SYSTEM NAME:

Momentum Financials Vendor Files.

SYSTEM LOCATION:

Office of Accounting and Financial Management Services, Corporation for National and Community Service, 1201 New York Avenue, NW., Washington, DC, 20525.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All individuals with whom the Corporation does business.

CATEGORIES OF RECORDS IN THE SYSTEM:

The data recorded includes the name and address of the entity doing business with the Corporation, ABA routing number, financial institution name and address, depositor account number and the taxpayer identification number; e.g., the SSN of an individual and the TIN of an organization.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Domestic Volunteer Service Act of 1973, as amended; the National and Community Service Act of 1990, as amended, and the Budget and Accounting Procedures Act of 1950, as amended.

PURPOSE(S):

To maintain a single registry of entities with which the agency does business.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Data is shared with the Department of Health and Human Services in the servicing of Corporation grant recipients; data may be disclosed to the U.S. Department of Justice, the U.S. Department of Treasury or the General Accounting Office in connection with debt servicing activities or to the Internal Revenue Service in the reporting of disbursements as required by the Internal Revenue Code. Also, see General Routine Uses contained in Preliminary Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Data is stored on magnetic media in a computer system with access controlled by a security system that requires passwords and identification of each user.

RETRIEVABILITY:

Data can be retrieved from the system electronically by name or TIN.

SAFEGUARDS:

Access to data stored on magnetic media is controlled by a security system that requires password and identification of each user.

RETENTION AND DISPOSAL:

Records are held for three (3) years and then retired to the Federal Records Center.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Accounting and Financial Management Services, Corporation for National and Community Service, 1201 New York Avenue, NW., Washington, DC, 20525.

NOTIFICATION PROCEDURE:

To determine whether there is a record in the system of records about an individual, that individual should submit a request in writing to the System Manager giving name, taxpayer identification number, and address.

RECORD ACCESS PROCEDURES:

See Notification procedures.

CONTESTING RECORD PROCEDURES:

Anyone desiring to contest or amend information contained in this system should write to the System Manager and set forth the basis for which the record is believed to be incomplete or incorrect.

RECORD SOURCE CATEGORIES:

Data in this system is obtained from documents submitted by individuals covered by the system as well as documents issued by the Corporation officials involved with managing funds.

EXEMPTION CLAIMED FOR THE SYSTEM:

None.

CORPORATION-18

SYSTEM NAME:

AmeriCorps*VISTA Volunteer Management System Files.

SYSTEM LOCATION:

Office of Accounting and Financial Management Services, AmeriCorps*VISTA Payroll Office, Corporation for National and Community Service, 1201 New York Avenue, NW., Washington, DC, 20525.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former AmeriCorps*VISTA members.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include name, address, social security number, data concerning the individual's sex, marital status, skills, service as an AmeriCorps*VISTA member, including dates served and projects served, amounts paid to the member while serving, amounts overpaid, and repayment records of such overpayment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Domestic Volunteer Service of 1973, as amended, and the Budget and Accounting Procedures Act of 1950, as amended.

PURPOSE(S):

To record payments and allowances to AmeriCorps*VISTA members.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See General Routine Uses contained in Preliminary Statement. Information is also disclosed to the Social Security Administration and the Internal Revenue Service about the funds paid to comply with legal requirements that enable these agencies to perform their functions. Data from the system is also disclosed to the Financial Management Service of the U.S. Department of the Treasury to enable payments to be made.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual data is stored alphabetically in locked filing cabinets that are kept in a room that is only used for storing such materials. That room is kept locked except when employees who work with the AmeriCorps*VISTA member payroll system are using the data. Access by all other individuals is not allowed. Data is also stored on magnetic media in a computer system with access controlled by a security system that requires passwords and identification of each user.

RETRIEVABILITY:

Data can be retrieved by individual name for manual records or by social security number for automated records.

SAFEGUARDS:

The storage room is kept locked except when employees who work with the AmeriCorps*VISTA member payroll system are using the data. Access by all other individuals is not allowed. Access to data stored on magnetic media is controlled by a security system that requires passwords and identification of each user.

RETENTION AND DISPOSAL:

Records are held for three (3) years and then retired to the Federal Records Center.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Accounting and Financial Management Services, Corporation for National and Community Service, 1201 New York Avenue, NW., Washington, DC 20525.

NOTIFICATION PROCEDURE:

To determine whether there is a record in the system of records about an individual, that individual should submit a request in writing to the System Manager giving name, taxpayer identification number, and address.

RECORD ACCESS PROCEDURES:

See Notification procedure.

CONTESTING RECORD PROCEDURES:

Anyone desiring to contest or amend information contained in this system should write to the System Manager and set forth the basis for which the record is believed to be incomplete or incorrect.

RECORD SOURCE CATEGORIES:

Data in this system is obtained from documents submitted by individuals covered by the system as well as documents issued by Corporation officials involved with managing funds.

EXEMPTION CLAIMED FOR THE SYSTEM:

None.

Dated: January 24, 2002.

Frank R. Trinity,

General Counsel.

[FR Doc. 02–2240 Filed 1–29–02; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF DEFENSE

Department of the Army

Availability of U.S. Patent Application for Non-Exclusive, Exclusive, or Partially Exclusive Licensing for Chemical and Biological Sampling Device and Kit and Method of Use Thereof

AGENCY: U.S. Army Soldier and Biological Chemical Command (SBCCOM), DoD.

ACTION: Notice.

SUMMARY: In accordance with 35 U.S.C. 209 and 37 CFR part 404 announcement is made of the availability for licensing of the following U.S. Patent application for non-exclusive, exclusive, or partially exclusive licensing. The patent application listed below has been assigned to the United States Government as represented by the Secretary of the Army, Washington, DC.

Title: ''Chemical and Biological Sampling Device and Kit and Method of Use Thereof.''

Description: The present invention relates to a sampling device and kit for collecting chemical and biological samples in a wet or dry format. The invention provides a means to easily collect chemical and biological samples, safely transport the collected samples with no leakage, and safely dispense a collected sample into a sterile capture

vial/bottle for analysis that provides for optimum sample recovery and has been designed to be easy to operate while wearing protective gear.

Patent Application Number: 09/974,436.

Filing Date: October 10, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. John Biffoni, Intellectual Property Attorney, U.S. Army SBCCOM, ATTN: AMSSB–CC (Bldg E4435), APG, MD 21010–5424, Phone: (410) 436–1158; FAX: 410–436–2534 or E-mail: *John.Biffoni@sbccom.apgea.army.mil.*

SUPPLEMENTARY INFORMATION: None.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 02–2216 Filed 1–29–02; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DOD.

ACTION: Notice to add a system of records.

SUMMARY: The Department of the Army is adding a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action is effective without further notice on March 1, 2002 unless comments are received which result in a contrary determination.

ADDRESSES: Records Management Division, U.S. Army Records Management and Declassification Agency, ATTN: TAPC–PDD–RP, Stop 5603, 6000 6th Street, Ft. Belvoir, VA 22060–5603.

FOR FURTHER INFORMATION CONTACT: Ms. Janice Thornton at (703) 806–4390 or DSN 656–4390 or Ms. Christie King at (703) 806–3711 or DSN 656–3711.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on January 22, 2002, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: January 24, 2002.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

A0500–3c DAMO

SYSTEM NAME:

Emergency Relocation Group (ERG) Roster Files.

SYSTEM LOCATION:

Headquarters, Department of the Army, Army Continuity of Operations Program Office, 400 Army Pentagon, Washington, DC 20310–0400.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Personnel at Headquarters, Department of the Army and all associated Field Operating Agencies designated to occupy key positions that directly support the Continuity of Operation plan when an emergency situation develops.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, office/home/cellular/pager telephone numbers, the last four numbers of the individual's Social Security Number and relocation assignment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013, Secretary of the Army; E.O. 12656, Assignment of Emergency Preparedness Responsibilities; DoD Directive 3020.26, Continuity of Operations Policy and Planning; and Army Regulation 500–3, Army Continuity of Operations.

PURPOSE(S):

To notify designated Headquarters, Department of the Army personnel as to their responsibilities and relocation assignments in conditions of emergency. The Dialogic Communicator will execute the notification of the Emergency Relocation Group (ERG). Therefore, ERG members will ensure the execution of essential missions and functions during the emergency situation.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' set forth at the beginning of the agency's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on paper and on electronic media.

RETRIEVABILITY:

Information is retrieved by individual's name.

SAFEGUARDS:

The building in which the system is housed employs security guards. Records that are maintained are in areas that are accessible only to authorized personnel who are properly screened, cleared, and trained. Access to personal information is restricted to those who require the records in the performance of official duties.

RETENTION AND DISPOSAL:

Disposition pending (until the National Archives and Records Administration approves retention and disposal schedule, records will be treated as permanent).

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Division Chief, Headquarters, Department of the Army, Army Continuity of Operations Program Office, 400 Army Pentagon, Washington, DC 20310–0400.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Privacy Administrator, Headquarters, Department of the Army, Army Continuity of Operations Program Office, 400 Army Pentagon, Washington, DC 20310–0400.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Privacy Administrator, Headquarters, Department of the Army, Army Continuity of Operations Program Office, 400 Army Pentagon, Washington, DC 20310–0400.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 02–2174 Filed 1–29–02; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to Alter a System of Records.

SUMMARY: The Department of the Army is altering a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

The alteration separate an existing routine use into three, and adds another to the Department of Veteran's Affairs to verify occupational radiation exposure for evaluating veterans benefit claims.

DATES: This proposed action will be effective without further notice on March 1, 2002 unless comments are received which result in a contrary determination.

ADDRESSES: Records Management Division, U.S. Army Records Management and Declassification Agency, ATTN: TAPC–PDD–RP, Stop 5603, 6000 6th Street, Ft. Belvoir, VA 22060–5603.

FOR FURTHER INFORMATION CONTACT: Ms. Janice Thornton at (703) 806–4390 or DSN 656–4390 or Ms. Christie King at (703) 806–3711 or DSN 656–3711.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on January 22, 2002, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: January 24, 2002.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.,

A0040–14 DASG

SYSTEM NAME:

Radiation Exposure Records (August 7, 1997, 62 FR 42529).

CHANGES:

SYSTEM IDENTIFIER:

Change entry to read 'A0040–11 DASG'.

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with 'All active duty Army, Reserve Army National Guard, and persons employed by the Army to include contractors, who are occupationally exposed to radiation or radioactive materials.

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete 'Automated' and 'data elements such as' from first paragraph. Delete ', experience, . . . to exposed dosimetry film;' and 'harmful chemical, biological and,' from entry. Add 'external and internal exposure to ionizing radiation'.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with '10 U.S.C. 3013, Secretary of the Army; 29 U.S.C. Chapter 15, Occupational Safety and Health; Army Regulation 11–9, The Army Radiation Safety Program; Army Regulation 40–5, Preventive Medicine; Army Regulation 40–13, Medical Support—Nuclear Chemical Accidents and Incidents; Department of the Army Pamphlet 40–18, Personnel Dosimetry Guidance and Dose Recording Procedures for Personnel Occupationally Exposed to Ionizing Radiation; 10 CFR part 19, Nuclear Regulatory Commission; and E.O. 9397 (SSN).

PURPOSE(S):

Delete entry and replace with 'To monitor, evaluate, and control the risks of individual exposure to ionizing radiation or radioactive materials by comparison of test for short and long term exposure. Conduct investigations of occupational health hazards and relevant management studies and ensure efficiency in maintenance of prescribed safety standards. As well as ensure individual qualifications and education in handling radioactive materials are maintained.'

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete second paragraph and replace with 'To the National Cancer Institute for epidemiologiocal studies to assess the effects of occupational radiation exposure.

To the Center for Disease Control for epidemiological studies to assess the effects of occupational radiation exposure.

To the National Council on Radiation Protection and Measurement to research and evaluated radiation exposure levels for use in the development of guidance and recommendations on radiation protections and measurements.

To the Department of Veteran's Affairs to verify occupational radiation exposure for evaluating veterans benefit claims.'

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with 'Professional consultant control files destroy 1 year after termination. Clinical and pathological lab reports destroy when no longer needed for conducting business. Personnel dosimetry files destroy after 75 years. Personnel bioassays maintained by safety officers destroy after individual leaves the organizations or is no longer occupationally exposed; all other personnel bioassays are destroyed after 75 years. Ionizing radiation authorized personnel user listings destroy 5 years after transfer or separation of individual.

Radiation incident cases-disposition pending National Archive and Records Administration (NARA) approval. Until retention and disposal is provided by NARA, treat records as permanent.

* * * * *

A0040–11 DASG

SYSTEM NAME:

Radiation Exposure Records.

SYSTEM LOCATION:

Army installations, activities, laboratories, etc., which use or store radiation producing devices or radioactive materials or equipment. An automated segment exists at Redstone Arsenal, AL 35898–5000.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All active duty Army, Reserve Army National Guard, and persons employed by the Army, to include contractors, who are occupationally exposed to radiation or radioactive materials.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records contain individual's name, Social Security Number, date of birth,

film badge number, coded cross-reference to place of assignment at time of exposure, dates of exposure and radiation dose, cumulative exposure, type of measuring device, and coded cross-reference to qualifying data regarding exposure readings.

Documents reflecting individual's training, external and internal exposure to ionizing radiation, reports of investigation, reports of radiological exposures, and relevant management reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013, Secretary of the Army; 29 U.S.C. Chapter 15, Occupational Safety and Health; Army Regulation 11–9, The Army Radiation Safety Program; Army Regulation 40–5, Preventive Medicine; Army Regulation 40–13, Medical Support—Nuclear Chemical Accidents and Incidents; Department of the Army Pamphlet 40–18, Personnel Dosimetry Guidance and Dose Recording Procedures for Personnel Occupationally Exposed to Ionizing Radiation; 10 CFR part 19, Nuclear Regulatory Commission and E.O. 9397 (SSN).

PURPOSE(S):

To monitor, evaluate, and control the risks of individual exposure to ionizing radiation or radioactive materials by comparison of test for short and long term exposure. Conduct investigations of occupational health hazards and relevant management studies and ensure efficiency in maintenance of prescribed safety standards. As well as ensure individual qualifications and education in handling radioactive materials are maintained.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the National Cancer Institute for epidemiological studies to assess the effects of occupational radiation exposure.

To the Center for Disease Control for epidemiological studies to assess the effects of occupational radiation exposure.

To the National Council on Radiation Protection and Measurement to research and evaluated radiation exposure levels for use in the development of guidance and recommendations on radiation protections and measurements.

To the Department of Veteran's Affairs to verify occupational radiation exposure for evaluating veterans benefit claims.

The DoD 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Papers in file folders, film packets, magnetic/tapes/discs.

RETRIEVABILITY:

By individual's name and/or Social Security Number.

SAFEGUARDS:

Access to all records is restricted to designated individuals having official need therefore in the performance of assigned duties. In addition, access to automated records is controlled by Card Key System, which requires positive identification and authorization.

RETENTION AND DISPOSAL:

Professional consultant control files destroy 1 year after termination. Clinical and pathological lab reports destroy when no longer needed for conducting business. Personnel dosimetry files destroy after 75 years. Personnel bioassays maintained by safety officers destroy after individual leaves the organizations or is no longer occupationally exposed; all other personnel bioassays are destroyed after 75 years. Ionizing radiation authorized personnel user listings destroy 5 years after transfer or separation of individual.

Radiation incident cases (Disposition pending National Archive and Records Administration (NARA) approval. Until retention and disposal is provided by NARA, treat records as permanent).

SYSTEM MANAGER(S) AND ADDRESS:

Commander, U.S. Army Aviation Missile Command Ionizing Radiation Dosimetry Branch, Building 5417, Redstone Arsenal, AL 35898–5000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to Commander, U.S. Army Aviation Missile Command Ionizing Radiation Dosimetry Branch, Building 5417, Redstone Arsenal, AL 35898–5000.

Individual must furnish full name, Social Security Number, dates and locations at which exposed to radiation or radioactive materials, etc., and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to Commander, U.S. Army Aviation Missile Command Ionizing Radiation Dosimetry Branch, Building 5417, Redstone Arsenal, AL 35898–5000.

Individual must furnish full name, Social Security Number, dates and locations at which exposed to radiation or radioactive materials, etc., and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual, dosimetry film, Army and/or DoD records and reports.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 02–2175 Filed 1–29–02; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement (EIS) for the Myrtle Grove Ecosystem Restoration Analysis, LA

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: Estimates show that approximately 30 square miles of coastal wetlands convert to open water in Louisiana each year. Causes of wetland loss are as varied and complex as wetland location and type. Wetland loss has been attributed to the loss of freshwater, nutrient, and sediment input from the Mississippi River due the construction of flood protection levees, salt water intrusion, oil and gas access canals, navigation channels, subsidence, and sea level rise. The loss of wetlands leads to serious negative impacts on fish and wildlife populations, hurricane protection, and the economy of Louisiana and the nation. If flows of freshwater, nutrient, and sediment from the Mississippi River into wetlands were reestablished, then lost coastal wetland ecosystem structure and function would be restored to a sustainable level.

FOR FURTHER INFORMATION: Questions concerning the EIS should be addressed to Mr. Sean Mickal at (504) 862–2319. Mr. Mickal may also be reached at FAX number (504) 862–2572 or by E-mail at sean.p.mickal@mvn02.usace.army.mil. Mr. Mickal's address is U.S. ARMY CORPS OF ENGINEERS, PM–RS, P.O. BOX 60267, NEW ORLEANS, LA 70160–0267.

SUPPLEMENTARY INFORMATION:

1. Authority

The U.S. Army Corps of Engineers, New Orleans District, at the direction of the Louisiana Coastal Wetlands Conservation and Restoration Task Force, is initiating this study under the authority of the Coastal Wetlands Planning, Protection and Restoration Act, Pub. L. 101–646. This act includes funds for the planning of measures for the creation, restoration, protection and enhancement of coastal wetlands.

2. Proposed Action

The proposed action would restore, enhance, and sustain the coastal wetlands ecosystem west of the Mississippi River in Barataria Basin, Louisiana. This ecosystem is located approximately 25–30 miles due south of New Orleans, Louisiana, in Plaquemines, Jefferson, and Lafourche parishes. This action would attempt to utilize the nutrients, freshwater, and sediment of the Mississippi River for this restoration. The objective is to reestablish ecosystem functions lost with wetlands deterioration and would increase the wetland acreage and biodiversity of the ecosystem. Environmental analysis would be used to determine the most practical plan, which would provide for the greatest overall public benefit. The recommended plan would restore degraded wetlands with the least adverse impacts to stakeholder interests.

3. Alternatives

Alternatives recommended for consideration presently include the construction of one or more river diversion structures in the vicinity of Myrtle Grove, dedicated dredging to construct wetlands, the construction of outfall management structures, and combinations of the above. Various capacities for the diversion structure(s) would be investigated. Various increments of dedicated dredging and increments of long-term diversion amounts would also be investigated.

4. Scoping

Scoping is the process for determining the scope of alternatives and significant issues to be addressed in the EIS. For this analysis, a letter will be sent to all parties believed to have an interest in the analysis, requesting their input on alternatives and issues to be evaluated. The letter will also notify interested parties of public scoping meetings that will be held in the local area. Notices will also be sent to local news media. All interested parties are invited to comment at this time, and anyone interested in this study should request to be included in the study mailing list.

A series of public scoping meetings will be held in the early part of 2002. These meetings will be held in Plaquemines and Jefferson Parishes, Louisiana. Additional meetings could be held, depending upon interest and if it is determined that further public coordination is warranted.

5. Significant Issues

The tentative list of resources and issues that would be evaluated in the EIS includes tidally influenced coastal wetlands (marshes and swamps), aquatic resources, commercial and recreational fisheries, wildlife resources, essential fish habitat, water quality, air quality, threatened and endangered species, recreation resources, and cultural resources. Socioeconomic items that would be evaluated in the EIS include navigation, flood protection, business and industrial activity, employment, land use, property values, public/community facilities and services, tax revenues, population, community and regional growth, transportation, housing, community cohesion, and noise.

6. Environmental Consultation and Review

The U.S. Fish and Wildlife Service (USFWS) will be assisting in the documentation of existing conditions and assessment of effects of project alternatives through Fish and Wildlife Coordination Act consultation procedures. The USFWS will also provide a Fish and Wildlife Coordination Act report. Consultation will also be accomplished with the USFWS and the National Marine Fisheries Service (NMFS) concerning threatened and endangered species and their critical habitat. The NMFS will be consulted on the effects of this proposed action on Essential Fish Habitat. The draft EIS or a notice of its availability will be distributed to all interested agencies, organizations, and individuals.

7. Estimated Date of Availability

Funding levels will dictate when the draft EIS would be made available. The earliest date the draft EIS is expected to be available is the spring of 2004.

Dated: January 10, 2002.

Thomas F. Julich,

Colonel, U.S. Army, District Engineer.

[FR Doc. 02–2219 Filed 1–29–02; 8:45 am]

BILLING CODE 3710–84–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for Proposed Cape Wind Energy Project, Nantucket Sound and Yarmouth, MA Application for Corps Section 10/404 Individual Permit

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The New England District, Corps of Engineers, has received an application from Cape Wind Associates, LLC for a Section 10/404 Individual Permit for the installation and operation of 170 offshore Wind Turbine Generators (WTGs) in federal waters off the coast of Massachusetts on Horseshoe Shoal in Nantucket Sound, with the transmission lines going through Massachusetts state waters. The Corps has determined that an EIS is required for this proposed project, currently the first proposal of its kind in the United States. The applicant's stated purpose of the project is to generate up to 420 MW of renewable energy that will be distributed to the New England regional power grid, including Cape Code and the islands of Martha's Vineyard and Nantucket. The power will be transmitted to shore via a submarine cable system consisting of two 115kV lines to a landfall site in Yarmouth, Massachusetts. The submarine cable system will then interconnect with an underground cable system, where it will interconnect with an existing NSTAR 115kV electric transmission line for distribution.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and DEIS can be answered by Mr. Brian Valiton, Regulatory Division, U.S. Army Corps of Engineers, 696 Virginia Road, Concord, Massachusetts 01742–2751, Telephone No. (978) 318–8166, or by e-mail at *Brian.e.valiton@usace.army.mil.*

SUPPLEMENTARY INFORMATION: The proposed wind turbine array would occupy approximately 28 square miles in an area of Nantucket Sound known as Horseshoe Shoals between Nantucket

Island and the Cape Cod mainland. The northernmost turbines would be approximately 4.1 miles from the nearest land mass (Point Gammon), the southeastern most turbines would be approximately 11 miles from Nantucket, and the westernmost turbines will be approximately 5.5 miles from Martha's Vineyard. The array of generators was established in a northwest to southeast alignment to provide optimum utilization of the wind energy potential. The proposed submarine cable landfall location if Yarmouth, Massachusetts. Each wind power generating structure would generate up to 2.7 megawatts of electricity and would be up to 420 feet above the water surface. The proposed submarine cable system, consisting of two 115kV solid dielectric cable circuits, would be jet-plow embedded into the seabed to a depth of approximately 6 feet. The foundations of the WTGs may require scour protection. Scour protection would require the placement of stone riprap or concrete matting on the seabed surface surrounding the foundation. The overland cable system would be installed underground within existing public rights-of-way and roadways in the town of Yarmouth, Massachusetts, ultimately connecting to an existing 115kV electric transmission line for distribution. The approximate construction start date for the proposed project is 2004, with commercial operation starting in 2005.

Alternatives to be addressed in the EIS will include: the no action alternative; alternative wind park locations, including offshore vs. upland; submarine cable route alternatives; alternative landfall and overland cable route locations, and alternative connections to an NSTAR transmission line.

Significant issues to be analyzed in depth in the EIS will include impacts associated with construction, operation, maintenance and decommissioning of the wind turbines on the following resources: recreational and commercial boating and fishing activities, endangered marine mammals and reptiles, birds, aviation, benthic habitat, aesthetics, cultural resources, radio and television frequencies, ocean currents, and land resources.

Other Environmental Review and Consultation Requirements: To the fullest extent possible, the EIS will be integrated with analyses and consultation required by the Endangered Species Act of 1973, as amended (Pub. L. 93–205; 16 U.S.C. 1531, *et seq.*); the Magnuson-Stevens Fishery Conservation and Management Act, as amended (Pub. L. 94–265; 16 U.S.C. 1801, *et seq.*), the National Historic Preservation Act of 1966, as amended (Pub. L. 89–655; 16 U.S.C. 470, *et seq.*); the Fish and Wildlife Coordination Act of 1958, as amended (Pub. L. 85–624; 16 U.S.C. 661, *et seq.*); the Coastal Zone Management Act of 1972, as amended (Pub. L. 92–583; 16 U.S.C. 1451, *et seq.*); and the Clean Water Act of 1977, as amended (Pub. L. 92–500; 33 U.S.C. 1251, *et seq.*), Section 10 of the Rivers and Harbors Act of 1899, 33 U.S.C. 403 *et seq.*); the Outer Continental Shelf Lands Act (Pub. L. 95–372; 43 U.S.C. 1333(e)), and applicable and appropriate Executive Orders. Additionally, this EIS will be prepared concurrently with the requirements of the Massachusetts Environmental Policy Act (301 CMR 11.00 *et seq.*).

Scoping: The Corps will conduct an open scoping and public involvement process during the development of the EIS. The purpose of the scoping meetings is to assist the Corps in defining the issues that will be evaluated in the EIS. Scoping meetings will be held on March 6, 2002 starting at 1:30 pm at the JFK Federal Building, 55 New Sudbury St., Conference Room C, Boston, Massachusetts, and on March 7, 2002 starting at 6:30 pm at the Mattacheese Middle School, 400 Higgins Crowell Rd., West Yarmouth, Massachusetts. All interested Federal, State and local agencies, affected Indian tribes, interested private and public organizations, and individuals are invited to attend these scoping meetings.

The Draft EIS is anticipated to be available for public review in the summer of 2003.

Brian E. Osterndorf,

Col, En, Commander.

[FR Doc. 02–2217 Filed 1–29–02; 8:45 am]

BILLING CODE 3710–24–M

DEPARTMENT OF EDUCATION

Privacy Act of 1974; System of Records—Investigative Files of the Inspector General (18–10–01)

AGENCY: Department of Education.

ACTION: Correction.

SUMMARY: We publish this notice to correct the Investigative Files of the Inspector General (18–10–01) by restoring two items to the purpose clause, correcting the numbering of the routine uses, moving the substance of the computer matching routine use to the general list of routine uses and amending the introduction to the routine uses to include a statement that any of the routine use disclosures may be made on a case-by-case basis or through computer matching if the requirements for computer matching have been met, eliminating language in Disclosure 5, and clarifying the language of the Debarment and Suspension Disclosure. Our regular review of our system notices revealed the need for these clarifications and corrections.

DATES: The corrections in this notice are effective on January 30, 2002.

FOR FURTHER INFORMATION CONTACT: John Tressler, Office of Chief Information Officer, U.S. Department of Education, 400 Maryland Avenue, SW., room 5624 Regional Office Building 3, Washington, DC 20202–4580. Telephone: (202) 708–8900. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT.**

Corrections

The following corrections are made in the Notice of New, Amended, Altered and Deleted Systems of Records published in the **Federal Register** on June 4, 1999 (64 FR 30105):

On pages 30152 and 30153, beginning with the ''PURPOSE(S)'' section through the end of the ''ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:'' section on page 30153, first column, the notice is revised to read as follows:

PURPOSE(S):

Pursuant to the Inspector General Act, the system is maintained for the purposes of: (1) Conducting and documenting investigations by the Office of Inspector General (OIG) or other investigative agencies regarding Department of Education programs and operations and reporting the results of investigations to other Federal agencies, other public authorities or professional organizations which have the authority to bring criminal prosecutions or civil or administrative actions, or to impose other disciplinary sanctions; (2) documenting the outcome of OIG investigations; (3) maintaining a record of the activities that were the subject of investigations; (4) reporting investigative findings to other

Department of Education components for their use in operating and evaluating their programs or operations, and in the imposition of civil or administrative sanctions; (5) maintaining a record of complaints and allegations received relative to Department of Education programs and operations and documenting the outcome of OIG reviews of such complaints and allegations; (6) coordinating relationships with other Federal agencies, State and local governmental agencies, and nongovernmental entities in matters relating to the statutory responsibilities of the OIG; and (7) acting as a repository and source for information necessary to fulfill the reporting requirements of the Inspector General Act, 5 U.S.C. Appendix 3, 5.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information contained in a record in this system of records may be disclosed under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis, or if the requirements of the Computer Matching and Privacy Protection Act have been met under a computer matching agreement.

(1) *Disclosure for Use by Other Law Enforcement Agencies.* Information from this system of records may be disclosed as a routine use to any Federal, State, local, or foreign agency or other public authority responsible for enforcing, investigating, or prosecuting violations of administrative, civil, or criminal law or regulation where that information is relevant to any enforcement, regulatory, investigative, or prosecutorial responsibility of the receiving entity.

(2) *Disclosure to Public and Private Entities to Obtain Information Relevant to Department of Education Functions and Duties.* Information from this system of records may be disclosed as a routine use to public or private sources to the extent necessary to obtain information from those sources relevant to a Department investigation, audit, inspection or other inquiry.

(3) *Disclosure for Use in Employment, Employee Benefit, Security Clearance, and Contracting Decisions.*

(a) *For Decisions by the Department.* Information from this system of records may be disclosed as a routine use to a Federal, State, local, or foreign agency maintaining civil, criminal or other relevant enforcement or other pertinent records, or to another public authority or professional organization, if necessary to obtain information relevant to a Department decision concerning the hiring or retention of an employee or other personnel action, the issuance or retention of a security clearance, the letting of a contract, or the issuance or retention of a license, grant, or other benefit.

(b) *For Decisions by Other Public Agencies and Professional Organizations.* Information from this system of records may be disclosed as a routine use to a Federal, State, local, or foreign agency or other public authority or professional organization, in connection with the hiring or retention of an employee or other personnel action, the issuance or retention of a security clearance, the letting of a contract, or the issuance or retention of a license, grant or other benefit.

(4) *Disclosure to Public and Private Sources in Connection with the Higher Education Act of 1965, as Amended (''HEA'').* Information from this system of records may be disclosed as a routine use to any accrediting agency which is or was recognized by the Secretary of Education pursuant to the HEA; to any guaranty agency which is or was a party to an agreement with the Secretary of Education pursuant to the HEA; or to any agency which is or was charged with licensing or legally authorizing the operation of any educational institution or school which was eligible, is currently eligible, or may become eligible to participate in any program of Federal student assistance authorized by the HEA.

(5) *Litigation Disclosure.*

(a) *Disclosure to the Department of Justice.* If the disclosure of certain records to the Department of Justice is relevant and necessary to litigation and is compatible with the purpose for which the records were collected, those records may be disclosed as a routine use to the Department of Justice. Such a disclosure may be made in the event that one of the parties listed below is involved in the litigation, or has an interest in the litigation:

(i) The Department, or any component of the Department;

(ii) Any employee of the Department in his or her official capacity;

(iii) Any employee of the Department in his or her individual capacity where the Department of Justice has agreed to represent the employee or in connection with a request for such representation; or

(iv) The United States, where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Other Litigation Disclosure.* If disclosure of certain records to a court, adjudicative body before which the Department is authorized to appear, individual or entity designated by the Department or otherwise empowered to resolve disputes, counsel or other representative, or potential witness is relevant and necessary to litigation and is compatible with the purpose for which the records were collected, those records may be disclosed as a routine use to the court, adjudicative body, individual or entity, counsel or other representative, or potential witness. Such a disclosure may be made in the event that one of the parties listed below is involved in the litigation, or has an interest in the litigation:

(i) The Department, or any component of the Department;

(ii) Any employee of the Department in his or her official capacity;

(iii) Any employee of the Department in his or her individual capacity where the Department has agreed to represent the employee; or

(iv) The United States, where the Department determines that the litigation is likely to affect the Department or any of its components.

(6) *Disclosure to Contractors and Consultants.* Information from this system of records may be disclosed as a routine use to the employees of any entity or individual with whom or with which the Department contracts for the purpose of performing any functions or analyses that facilitate or are relevant to an OIG investigation, audit, inspection, or other inquiry. Before entering into such a contract, the Department shall require the contractor to maintain Privacy Act safeguards, as required under 5 U.S.C. 552a(m) with respect to the records in the system.

(7) *Debarment and Suspension Disclosure.* Information from this system of records may be disclosed as a routine use to another Federal agency considering suspension or debarment action where the information is relevant to the suspension or debarment action. Information may also be disclosed to another agency to gain information in support of the Department's own debarment and suspension actions.

(8) *Disclosure to the Department of Justice.* Information from this system of records may be disclosed as a routine use to the Department of Justice, to the extent necessary for obtaining its advice on any matter relevant to Department of Education operations.

(9) *Congressional Member Disclosure.* Information from this system of records may be disclosed to a member of Congress from the record of an individual in response to an inquiry

from the member made at the written request of that individual. The member's right to the information is no greater than the right of the individual who requested it.

(10) *Benefit Program Disclosure.* Records may be disclosed as a routine use to any Federal, State, local or foreign agency, or other public authority, if relevant to the prevention or detection of fraud and abuse in benefit programs administered by any agency or public authority.

(11) *Overpayment Disclosure.* Records may be disclosed as a routine use to any Federal, State, local or foreign agency, or other public authority, if relevant to the collection of debts and overpayments owed to any agency or public authority.

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To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO); toll free, at 1–888–293–6498; or in the Washington, DC area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.access.gpo.gov/nara/index.html*

Dated: January 25, 2002.

Craig B. Luigart,

Chief Information Officer.

[FR Doc. 02–2226 Filed 1–29–02; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02–73–000]

Cargill, Incorporated, Complainant, v. Saltville Gas Storage Company, LLC, Respondent; Notice of Complaint

January 24, 2002.

Take notice that on January 23, 2002, pursuant to sections 5, 7, and 16 of the Natural Gas Act (NGA) and Rule 206 of the Commission's Rules of Practice and Procedure, 18 CFR 385.206, Cargill, Incorporated, (Cargill) filed a Complaint against Saltville Gas Storage Company, LLC (''Saltville LLC'') requesting that the Commission issue an order requiring Saltville LLC to cease and desist from the construction of jurisdictional salt cavern storage facilities without a certificate. The Complaint alleges that Saltville LLC is attempting to circumvent the jurisdiction of this Commission by constructing and operating an interstate natural gas storage facility, in Saltville, Virginia under claim of State jurisdiction despite the fact that the overriding purpose of the facilities is to provide natural gas storage service in interstate commerce. Accordingly, Cargill respectfully requests that the Commission assert jurisdiction over Saltville LLC, order it to cease and desist from all construction activities, and require it to file an application for a certificate of public convenience and necessity with this Commission. Alternatively, Cargill requests that the Commission issue a cease and desist order accompanied by an order requiring Saltville LLC to show cause why the proposed storage facilities are not subject to the Commission's NGA jurisdiction.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests must be filed on or before February 12, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Answers to the complaint shall also be due on or before February 12, 2001. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See,* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

C.B. Spencer,

Acting Secretary.

[FR Doc. 02–2245 Filed 1–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2107–010 California]

Pacific Gas and Electric Company; Notice Rejecting Application and Soliciting Applications

January 24, 2002.

On October 2, 2001, the Pacific Gas and Electric Company (PG&E), licensee for the Poe Hydroelectric Project No. 2107, filed an application for a new license for the project, pursuant to section 15(b)(1) of the Federal Power Act (Act). The application was untimely filed, however, and a request for a license amendment that would have cured that deficiency was denied by the Commission in an order issued January 16, 2002.[1] Consequently, that license application is hereby rejected.

The project is located on the North Fork Feather River, in Butte County, California and occupies lands of the United States within the Plumas National Forest. The project consists of: (1) The 400-foot-long, 60-foot tall Poe Diversion Dam, including four 50-foot-wide by 41-foot-high radial flood gates, a 20-foot-wide by 7-foot-high small radial gate, and a small skimmer gate that is no longer used; (2) the 53-acre Poe Reservoir; (3) a concrete intake structure located on the shore of Poe Reservoir; (4) a pressure tunnel about 19 feet in diameter with a total length of about 33,000 feet; (5) a differential surge chamber located near the downstream end of the tunnel; (6) a steel underground penstock about 1,000 feet in length and about 14 feet in diameter; (7) a reinforced concrete powerhouse, 175-feet-long by 114-feet-wide, with two vertical-shaft Francis-type turbines rated at 76,000 horsepower connected to vertical-shaft synchronous generators rated at 79,350 kVA with a total installed capacity of 143 MW and an average annual generation of 584 gigawatt hours; (8) the 370-foot-long, 61-foot tall, concrete gravity Big Bend Dam; (9) the 42-acre Poe Afterbay Reservoir; and (10) appurtenant facilities.

As a result of the rejection of PG&E's application and pursuant to section 16.25 of the Commission's Regulations, the Commission is soliciting license applications from potential applicants. This is necessary because the deadline for filing an application for new license and any competing license applications, pursuant to section 16.9 of the regulations, was October 1, 2001, and no

[1] 98 FERC ¶ 61,032 (2002)

other applications for license for this project were filed.

The Commission's January 16, 2002, order waived those parts of Sections 16.24(a) and 16.25(a) which bar an existing licensee that missed the two-year application filing deadline from filing another license application. Consequently, PG&E will be allowed to compete for the license and the incumbent preference established by FPA section 15(a)(2) will apply.

The licensee is required to make available certain information described in section 16.7 of the regulations. For more information from the licensee contact Mr. Tom Jereb, Project Manager, Pacific Gas and Electric Company, P.O. Box 770000, N11D, San Francisco, CA 94177, (415) 973–9320.

A potential applicant that files a notice of intent within 90 days from the date of issuance of this notice: (1) may apply for a license under part I of the Act and part 4 (except section 4.38) of the Commission's Regulations within 18 months of the date on which it files its notice; and (2) must comply with the requirements of sections 16.8 and 16.10 of the Commission's Regulations.

Questions concerning this notice should be directed to John Mudre, (202) 219–1208 or *john.mudre@ferc.fed.us.*

C.B. Spencer,

Acting Secretary.

[FR Doc. 02–2248 Filed 1–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER94–1409–006, et al.]

Cambridge Electric Light Company, et al.; Electric Rate and Corporate Regulation Filings

January 24, 2002.

Take notice that the following filings have been made with the Commission. Any comments should be submitted in accordance with Standard Paragraph E at the end of this notice.

1. Cambridge Electric Light Company

[Docket Nos. ER94–1409–006 and EL94–88–006]

Take notice that, on January 17, 2002, Cambridge Electric Light Company (Cambridge) filed its Final Refund Report in the referenced dockets.

Comment Date: February 7, 2002.

2. Merrill Lynch Capital Services, Inc.

[Docket No. ER99–830–007]

Take notice that on January 18, 2002, Merrill Lynch Capital Services, Inc. (MLCS) filed with the Federal Energy Regulatory Commission (Commission) a triennial updated market analysis in compliance with the Commission's January 20, 1999 Order in Docket No. ER99–830–000, which authorized MLCS to sell power at market-based rates.

Comment Date: February 8, 2002.

3. Consolidated Edison Company of New York, Inc.

[Docket No. ER02–46–001]

Take notice that on January 18, 2002, Consolidated Edison Company of New York, Inc. (Con Edison) tendered for filing with the Federal Energy Regulatory Commission (Commission) a revised Interconnection Agreement by and between Con Edison and the Power Authority of the State of New York, dated August 1, 2001. The filing was made in compliance with the Commission's Letter Order issued November 29, 2001 in this proceeding.

Comment Date: February 8, 2002.

4. Midwest Independent Transmission System Operator Inc.

[Docket No. ER02–108–003]

Take notice that on January 17, 2002, the Midwest Independent Transmission System Operator, Inc. tendered for filing with the Federal Energy Regulatory Commission (Commission) its compliance filing pursuant to the Commission's December 20, 2001 Order Granting RTO Status, Midwest Independent Transmission System Operator, Inc., 97 FERC ¶ 61,326 (2001), in which the Commission directed the Midwest ISO to file its contract for Market Monitoring Services with Potomac Economics, Ltd.

Comment Date: February 7, 2002.

5. American Electric Power Service Corporation

[Docket No. ER02–282–001]

Take notice that on January 18, 2002, American Electric Power Service Corporation (AEPSC) tendered for filing with the Federal Energy Regulatory Commission (Commission) a Facilities, Operation and Maintenance Agreement (Facility Agreement) dated June 1, 2001, between AEP and Buckeye Rural Electric Cooperative, Inc. (BREC).

Comment Date: February 8, 2002.

6. Florida Power & Light Company

[Docket Nos. ER02–139–001 and ER02–139–002]

Take notice that on January 22, 2002, Florida Power & Light Company tendered for filing with the Federal Energy Regulatory Commission (Commission) a compliance filing in accordance with the December 20, 2001 Letter Order issued by the Commission in the above-referenced proceeding.

Comment Date: February 12, 2002.

7. Armstrong Energy Limited Partnership, LLLP and Troy Energy, LLC

[Docket Nos. ER02–300–002 and 301–002]

Take notice that on January 18, 2002, Armstrong Energy Limited Partnership, LLLP (Armstrong Energy); and Troy Energy, LLC (Troy Energy) filed Revised Power Purchase Agreements (Revised PPAs) with Virginia Electric and Power Company to comply with the Commission's order of December 21, 2001 in these proceedings.

Armstrong Energy and Troy Energy request that their Revised PPAs become effective on January 5, 2002.

Armstrong Energy and Troy Energy have served this filing on the Ohio Public Utilities Commission, the Pennsylvania Public Service Commission, the North Carolina Public Utilities Commission and the Virginia State Corporation Commission.

Comment Date: February 8, 2002.

8. MEP Clarksdale Power, LLC

[Docket No. ER02–309–001]

Take notice that on January 17, 2002, MEP Clarksdale Power, LLC (MEP Clarksdale) tendered for filing with the Federal Energy Regulatory Commission (Commission) an amendment to its rate schedule filing in this docket to respond to the Commission staff's January 10, 2002 deficiency letter.

Comment Date: February 7, 2002.

9. Midwest Independent Transmission System Operator Inc.

[Docket No. ER02–325–001]

Take notice that on January 17, 2002, the Midwest Independent Transmission System Operator, Inc. tendered for filing with the Federal Energy Regulatory Commission (Commission) its compliance filing pursuant to the Commission's December 19, 2001 Letter Order directing the Midwest ISO to file the Coordination Agreement By and Between Midwest Independent Transmission System Operator Inc. and Manitoba Hydro in conformance with the requirements of Order No. 614.

Comment Date: February 7, 2002.

10. Pacific Gas and Electric Company

[Docket No. ER02–637–001]

Take notice that on January 18, 2002, Pacific Gas and Electric Company (PG&E) tendered for filing an errata to

its December 27, 2001, filing of changes in rates for the Transmission Revenue Balancing Account Adjustment (TRBAA) rate set forth in its Transmission Owner Tariff (TO Tariff), the Reliability Services (RS) rates set forth in both its TO Tariff and its Reliability Services Tariff (RS Tariff) (certain customers' RS rates are in the TO Tariff while other customers' RS rates are in the separate RS Tariff) and the Transmission Access Charge Balancing Account Adjustment (TACBAA) also set forth in its TO Tariff.

With the exception of the TACBAA rate, these changes in rates are proposed to become effective January 1, 2002.

Copies of this filing have been served upon the California Independent System Operator (ISO), Scheduling Coordinators registered with the ISO, Southern California Edison Company, San Diego Gas & Electric Company, the California Public Utilities Commission and other parties to the official service lists in recent TO Tariff rate cases, FERC Docket Nos. ER00–2360–000 and ER01–66–000.

Comment Date: February 8, 2002.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

C.B. Spencer,

Acting Secretary.

[FR Doc. 02–2184 Filed 1–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project Nos. 2778–005, 2777–007, 2061–004, 1975–014]

Idaho Power Company; Notice of Intention To Hold a Public Meeting February 28th in Boise, ID for Discussion of the Draft Environmental Impact Statement for the Mid-Snake River Hydroelectric Projects

January 24, 2002.

On January 17, 2002, the Commission staff delivered the Mid-Snake River Hydroelectric Projects (Shoshone Falls, Upper Salmon Falls, Lower Salmon Falls and Bliss) Draft Environmental Impact Statement (DEIS) to the U.S. Environmental Protection Agency, resource and land management agencies, and interested organizations and individuals. The DEIS evaluates the environmental consequences of the continued operation of the Mid-Snake River Hydroelectric Projects in Idaho.

The DEIS was noticed in the **Federal Register** and comments are due March 27, 2002.

Commission staff will conduct a public meeting to present the DEIS findings, answer questions about the findings and solicit public comment on the DEIS. The public meeting will be recorded by a court reporter, and all meeting statements (oral or written) will become part of the Commission's public record of this proceeding.

The meeting will be held Thursday, February 28, 2002 in the Merlins Room, at the Boise Centre on the Grove, 850 West Front Street, (Grove Plaza Entrance), Boise Idaho. Two meeting times are scheduled: 9:30 a.m.–4 p.m. for agencies and organizations and 7–9:30 p.m. for the public. Anyone may attend one or both meetings

For further information, please contact John Blair, at (202)219–2845, Federal Energy Regulatory Commission, Office of Energy Projects, 888 First Street NE., Washington, DC 20426.

C.B. Spencer,

Acting Secretary.

[FR Doc. 02–2249 Filed 1–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project Nos. 135–016–OR and 2195–008–OR]

Portland General Electric; Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

January 24, 2002.

a. *Type of Filing:* Amendment of license.

b. *Project No:* 135 and 2195.

c. *Date Filed:* November 28, 2001.

d. *Applicant:* Portland General Electric.

e. *Name of Project:* Oak Grove and North Fork Projects.

f. *Location:* The projects are located on the Oak Grove Fork and Clackamas River, near city of Estacada, in Clackamas County, Oregon.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r), Section 4.201 of the Commission's Regulations.

h. *Applicant Contact:* Julie Keil, Director Hydro Licensing, Portland General Electric Co., 121 SW Salmon St., 3WTC√BRHL, Portland, OR 97204, (503) 464–8864.

i. *FERC Contact:* William Guey-Lee, (202) 219–2808, or william.gueylee@ferc.fed.us.

j. *Deadline for filing comments, motions to intervene or protests:* 30 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The applicant is proposing to amend the project licenses to permit the replacement of one turbine runner at the Faraday development of Project No. 2195, permit the upgraded operation of a new runner installed at the North Fork

development of Project No. 2195, modify the spillway at the River Mill development of Project No. 2195, construct a new fish ladder and downstream bypass outfall at the River Mill development, and combine the licenses of Project Nos. 135 and 2195. The Oak Grove and North Fork Projects are currently operated under two separate licenses that will expire on August 31, 2006. The projects occupy U.S. lands within Mt. Hood National Forest.

l. *Location of the Filing:* A copy of the filing is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

n. A scoping document is also being mailed out concurrently for comment.

C.B. Spencer,

Acting Secretary.

[FR Doc. 02–2246 Filed 1–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

January 24, 2002.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment of license to add Shoreline Management Plan

b. *Project No:* 2206–021

c. *Date Filed:* December 28, 2001

d. *Applicant:* Carolina Power &Light Company

e. *Name of Project:* Tillery Hydroelectric Project

f. *Location:* On the Pee Dee River in Montgomery and Stanley Counties, North Carolina. The project does not utilize federal or tribal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 USC 791(a)–825(r).

h. *Applicant Contact:* Mr. Larry Mann, Carolina Power & Light Company, Tillery Hydro Plant, 179 Tillery Dam Road, Mt. Gilead, NC 27306. Phone: (910) 439–5211, ext. 1202.

i. *FERC Contact:* Any questions on this notice should be addressed to Shana High at (202) 208–2266, or e-mail address: shana.high@ferc.fed.us.

j. *Deadline for filing comments and/or motions:* March 6, 2002.

All documents (original and eight copies) should be filed with: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington DC 20426. Please include the project number (2206–021) on any comments or motions filed.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

k. *Description of Proposal:* CP&L developed a Shoreline Management Plan (SMP) to provide greater protection of the Lake Tillery shoreline, while ensuring safe and reliable production of hydroelectric power at the project. In the proposed plan, the licensee designates certain land classifications for its 118 miles of shorelines. These designations, including Environmental/Natural, Potential Development Areas, and Impact Minimization Zones will allow the licensee to manage lands for future uses. The SMP can be viewed at www.cpl.com by clicking ''Our Environment'', ''Lake Tillery Shoreline Management'', ''View Documents Online''.

l. *Locations of the Application:* Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' and follow the instructions (call 202–208–2222 for assistance).

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be

obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

C.B. Spencer,

Acting Secretary.

[FR Doc. 02–2247 Filed 1–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2042]

PUD #1 of Pend Oreille County; Notice of Teleconference Meeting for the Box Canyon Hydroelectric Project

January 24, 2002.

a. *Date and Time of Meeting:* February 26, 2002, 1 p.m. EST to 3:30 p.m. EST.

b. *Place:* By copy of this notice we are inviting U.S. Forest Service, U.S. Department of the Interior, Washington Department of Fish & Wildlife and Idaho Department of Fish & Game, and other interested parties to participate in a teleconference from their telephone location.

c. *FERC Contact:* Timothy Welch at (202) 219–2666: *timothy.welch@ferc.fed.us*.

d. *Purpose of the Meeting:* The Federal Energy Regulatory Commission seeks clarification of resource agency comments, mandatory conditions, and recommended protection, mitigation, and enhancement measures filed in response to our Notice of Ready for Environmental Analysis issued September 4, 2001.

e. *Proposed Agenda:*

A. Clarification of resource agency comments, mandatory conditions, and recommended protection, mitigation and enhancement measures.

B. FERC's schedule for issuing the Draft Environmental Impact Statement.

f. All local, state, and federal agencies, Indian Tribes and interested parties, are hereby invited to participate in this meeting. If you want to participate by teleconference, please register with either Timothy Welch at the number listed above or with Leslie Smythe at (781) 444–3330 ext. 481: *lsmythe@louisberger.com* NO LATER THAN close of business February 21, 2002.

C.B. Spencer,

Acting Secretary.

[FR Doc. 02–2250 Filed 1–29–02; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7135–8]

Agency Information Collection Activities: Request for Comments on Seven Proposed Information Collection Requests (ICRs)

AGENCY: United States Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit the seven continuing Information Collection Requests (ICRs) listed in Section A of this notice to the Office of Management and Budget (OMB). Before submitting the ICRs to OMB for review and approval, EPA is soliciting comments on specific aspects of the information collections as described at the beginning of the **SUPPLEMENTARY INFORMATION** provided in this notice.

DATES: Comments must be submitted on or before April 1, 2002.

ADDRESSES: Compliance Assessment and Media Programs Division, Office of Compliance, Office of Enforcement and Compliance Assurance, Mail Code 2223A, United States Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. A hard copy of a specific ICR may be obtained without charge by calling the identified information contact person listed in Section B under **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: For specific information on an individual ICR, contact the person listed in Section B under **SUPPLEMENTARY INFORMATION.**

SUPPLEMENTARY INFORMATION:

For All ICRs

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are displayed in 40 CFR Part 9.

The EPA would like to solicit comments to:

(i) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information;

(iii) enhance the quality, utility, and clarity of the information to be collected; and

(iv) minimize the burden of the collection of information on those who respond through the use of automated, electronic, mechanical, or other forms of information technology.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

In the absence of such information collection requirements, enforcement personnel would be unable to determine whether the standards are being met on a continuous basis, as required by the Clean Air Act. Consequently, these information collection requirements are mandatory, and the records required by New Source Performance Standards (NSPS) must be retained by the owner or operator for at least two years; records required by the National Emission Standards for Hazardous Air Pollutants (NESHAP) must be retained by the owner or operator for at least five years; and records required by the NESHAP Maximum Achievable Control Technology standards (NESHAP–MACT) must be retained by the owner or operator for at least five years. In general, the required information consists of emissions data and other information deemed not to be private. However, any information submitted to the Agency for which a claim of confidentiality is made will be safeguarded according to the Agency policies set forth in Title 40, Chapter 1, Part 2, Subpart B—Confidentiality of Business Information (See 40 CFR Part 2; 41 FR 36902, September 1, 1976; amended by 43 FR 39999, September 8, 1978; 43 FR 42251, September 28, 1978; 44 FR 17674, March 2, 1979).

The Agency computed the burden for each of the recordkeeping and reporting requirements applicable to the industry for the currently approved ICRs. Where applicable, the Agency identified specific tasks and made assumptions, while being consistent with the concept of the Paper Work Reduction Act.

Section A: List of ICRs To Be Submitted for OMB Approval

In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following seven continuing ICRs to OMB.

(1) *NESHAP Subpart BB:* National Emission Standards for Hazardous Air Pollutants (NESHAP) for Benzene Emissions from Bulk Transfer Operations; EPA ICR Number 1154.06; OMB Number 2060–0182; expiration date May 31, 2002.

(2) *NESHAP Subpart HHH:* NESHAP—Oil and Natural Gas Transmission and Storage (40 CFR Part 63, Subpart HHH); EPA ICR Number 1789.03; OMB Number 2060–0418; expiration date July 31, 2002.

(3) *NESHAP Subpart HH:* NESHAP—Oil and Natural Gas Production; EPA ICR Number 1788.03; OMB Number 2060–0417; expiration date July 31, 2002.

(4) *NSPS Subpart J:* NSPS for Petroleum Refineries (Subpart J); EPA ICR Number 1054.08; OMB Number 2060–0022; expiration date August 31, 2002.

(5) *NSPS Subpart GGG:* NSPS for Petroleum Refineries (Subpart GGG); EPA ICR Number 0983.06; OMB Number 2060–0067; expiration date October 31, 2002.

(6) *NESHAP–MACT Subpart PPP:* NESHAP for Polyether Polyol Production; EPA ICR Number 1811.03; OMB Control Number 2060–0415; expiration date July 31, 2002.

(7) *NSPS Subpart WWW:* NSPS for Municipal Solid Waste Landfills (40 CFR Part 60, Subpart WWW); EPA ICR Number 1557.05; OMB Number 2060–0220; expiration date September 30, 2002.

Section B: Contact Person for Individual ICRs

(1) *NESHAP Subpart BB:* Benzene Emissions from Bulk Transfer Operations; Rafael Sanchez of the Office of Compliance at (202) 564–7028 or via E-mail at sanchez.rafael@epa.gov; EPA ICR Number 1154.06; OMB Number 2060–0182; expiration date May 31, 2002.

(2) *NESHAP Subpart HHH:* NESHAP—Oil and Natural Gas Transmission and Storage (40 CFR Part 63, Subpart HHH); Dan Chadwick of the Office of Compliance at (202)-564–7054 or via E-mail at chadwick.dan@epa.gov; EPA ICR Number 1789.03; OMB Number 2060–0418; expiration date July 31, 2002.

(3) *NESHAP Subpart HH:* NESHAP—Oil and Natural Gas Production; Dan Chadwick of the Office of Compliance at (202) 564–7054 or via E-mail at chadwick.dan@epa.gov; EPA ICR Number 1788.03; OMB Number 2060–0417; expiration date July 31, 2002.

(4) *NSPS Subpart J:* NSPS for Petroleum Refineries (Subpart J); Dan Chadwick of the Office of Compliance at (202) 564–7054 or via E-mail at chadwick.dan@epa.gov; EPA ICR Number 1054.08; OMB Number 2060–0022; expiration date August 31, 2002.

(5) *NSPS Subpart GGG:* NSPS for Petroleum Refineries (Subpart GGG); Dan Chadwick of the Office of Compliance at (202) 564–7054 or via E-mail at chadwick.dan@epa.gov; EPA ICR Number 0983.06; OMB Number 2060–0067; expiration date October 31, 2002.

(6) *NESHAP–MACT Subpart PPP:* NESHAP for Polyether Polyol Production; Joanne Berman of the Office of Compliance at (202) 564–7064, or via E-mail to berman.joanne@epa.gov; EPA ICR Number 1811.03; OMB Control Number 2060–0415; expiration date July 31, 2002.

(7) *NSPS Subpart WWW:* NSPS for Municipal Solid Waste Landfills (40 CFR Part 60, Subpart WWW); Tracy Back of the Office of Compliance at (202) 564–7076 or via E-mail at back.tracy@epa.gov; EPA ICR Number 1557.05; OMB Number 2060–0220, expiration date September 30, 2002.

Section C: Summaries of Individual ICRs

(1) *NESHAP Subpart BB:* National Emissions Standards for Hazardous Air Pollutants (NESHAP) for Benzene Emissions from Bulk Transfer Operations; EPA ICR Number 1154.06; OMB Number 2060–0182; expiration May 31, 2002.

Affected Entities: Entities potentially affected by this action are bulk transfer operations that have benzene emissions which are addressed by the standards at 40 CFR Part 61, Subpart BB. These standards apply to the total of all loading racks which transfer a liquid which is at least 70 percent benzene by weight into tank trucks, railcars, or marine vessels. It also addresses benzene production facilities and bulk terminals. Specifically exempt from this regulation are loading racks at which only the following are loaded: benzene-laden waste (addressed under 40 CFR Part 61, Subpart FF), gasoline, crude oil, natural gas liquids, petroleum distillates (e.g., fuel oil, diesel, or kerosene), or benzene-laden liquid from coke by-product recovery plants. In addition, any affected entity that loads only liquid containing less than 70 weight-percent benzene, or whose annual benzene loading is less than 1.3 million liters of 70 weight-percent or more benzene, is exempt from the regulatory requirements except for the recordkeeping and reporting requirements at Section 61.305(i).

Abstract: The Administrator has determined that emissions of benzene from bulk transfer operations cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare. This information is being collected to assure compliance with 40 CFR Part 61, Subpart BB. Owners or operators of the affected facilities must make one-time only notifications to the Administrator. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Semiannual reports of excess emissions are required. These notifications, reports, and records are essential in determining compliance.

Burden Statement: In the previously approved ICR, the estimated number of respondents for this information collection was 54 with 216 responses per year. The annual industry reporting and recordkeeping burden for this collection of information was 7,889 hours. On the average, each respondent reported 4 times per year, and 37 hours were spent preparing each response. There was no annual reporting and recordkeeping cost burden associated with continuous emission monitoring in the previous ICR; therefore, there are no capital, or operation and maintenance costs associated with this ICR.

(2) *NESHAP Subpart HHH:* NESHAP—Oil and Natural Gas Transmission and Storage (40 CFR Part 63, Subpart HHH); EPA ICR Number 1789.03; OMB Number 2060–0418; expiration July 31, 2002.

Affected Entities: Entities potentially affected by this action are owners and operators of facilities in the natural gas transmission and storage industry. Of the total estimated population of 2,200 facilities in this industry, it is estimated that 7 existing facilities will be subject to the provisions of 40 CFR Part 63, Subpart HHH.

Abstract: The Administrator has determined that the emissions from oil and gas transmission and storage cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare. All existing sources must comply with the requirements of 40 CFR Part 63, Subpart HHH within three years of the effective date of the rule (June 17, 1999). All new sources must be in compliance with the natural gas transmission upon startup.

For sources constructed or reconstructed after the effective date, these standards require each source to submit both an initial notification and an application for approval of construction or reconstruction which enables enforcement personnel to identify the number of sources subject to the standards and to identify those sources that are already in compliance.

Respondents also are required to submit one-time reports of: (1) Start of construction for new facilities; (2) anticipated and actual start-up dates for new facilities; and (3) physical or operational changes to existing facilities.

These standards also require affected sources to submit a compliance status report. This report must be signed by a responsible company official who certifies its accuracy and certifies that the source has complied with the relevant standards. Performance test or design analysis results also are required in the compliance status report. The notification of compliance status must be submitted within 180 days after the compliance date for the affected source.

Affected sources are also required by the standards to install continuous monitoring systems (CMS) and to conduct a performance evaluation of the CMS. The results of the performance evaluation must be submitted to the EPA in the notification of compliance status report. Periodic reports documenting excess emissions and parameter monitoring exceedances must be submitted semi-annually when the CMS data are used to demonstrate compliance and the facility experiences excess emissions.

These standards also require owners or operators to develop startup, shutdown, and malfunction (SSM) plans, documenting procedures that will be taken in the case of an SSM. SSM reports also are required to be submitted to demonstrate that the actions taken by an owner or operator during an SSM comply with the SSM plan. When actions taken are consistent with the plan, reports are required semiannually. When actions taken are inconsistent with the plan, immediate reports are required.

Burden Statement: In the previously approved ICR, the estimated number of respondents for this information collection was 7 with 23 responses per year. The annual industry reporting and recordkeeping burden for this collection of information was 213 hours. On the average, each respondent reported 3.2 times per year, and 9 hours were spent preparing each response. There was no annual reporting and recordkeeping cost burden associated with continuous emission monitoring in the previous ICR; therefore, there are no capital, or operation and maintenance costs associated with this ICR.

(3) *NESHAP Subpart HH:* NESHAP—Oil and Natural Gas Production; EPA ICR Number 1788.03 OMB Number 2060–0417; expiration date July 31, 2002.

Affected Entities: Entities potentially affected by this action are owners and operators of facilities in the oil and natural gas production industry subject to 40 CFR Part 63, Subpart HH. Of the total estimated population of 120,000 facilities, it is estimated that 440 existing facilities will be subject to the provisions of these standards. In addition, it is estimated that 44 new facilities will be subject to the provisions of these standards over the next three years.

Abstract: The Administrator has determined that the emissions from oil and natural gas production cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare. All existing sources must be in compliance with the requirements of 40 CFR Part 63, Subpart HH within three years of the effective date (June 17, 1999) of the rule.

These standards require an affected source with an initial startup date before the effective date to submit a one-time initial notification. This initial notification must be submitted within one year after the source becomes subject to these standards. For sources constructed or reconstructed after the effective date of the relevant standards, the source must submit an application for approval of construction or reconstruction. The application is required to contain information on the air pollution control technique that will be used for each hazardous air pollutant emission point.

Respondents are also required to submit one-time reports regarding the: (1) Initiation of construction for new facilities; (2) anticipated and actual start-up dates for new facilities; and (3) physical or operational changes to existing facilities.

These standards also require affected sources to submit a notification of compliance status. This notification must be signed by a responsible company official who certifies its accuracy and certifies that the source has complied with these standards. Performance test or design analysis results also are required to be included in the compliance status report. The notification of compliance status must be submitted within 180 days after the compliance date for the affected source.

In addition, those affected sources required by these standards to install a continuous monitoring system (CMS) may be required by the Administrator to conduct a performance evaluation of the CMS. If required, the results of the performance evaluation must be submitted to the EPA in the notification of compliance status report. Periodic reports documenting excess emissions and parameter monitoring exceedances are also required to be submitted to the Administrator semiannually when the CMS data is used to demonstrate compliance and the facility experiences excess emissions.

Owners and operators must submit semiannual reports of the monitoring results from the leak detection and repair program in accordance with the equipment leak section of 40 CFR Part 63, Subpart HH.

The oil and natural gas production NESHAP require owners or operators to develop startup, shutdown, and malfunction (SSM) plans. SSM reports that document the actions taken by an owner or operator during an SSM event to ensure compliance with the SSM plan must be submitted. When actions taken are consistent with the plan, reports are required semiannually. When actions taken are inconsistent with the plan, immediate reports are required.

Burden Statement: In the previously approved ICR, the estimated number of respondents for this information collection was 484 with 3,328 responses per year. The annual industry reporting and recordkeeping burden for this collection of information was 27,298 hours. On the average, each respondent reported 6.9 times per year, and 56 hours were spent preparing each response.

The annualized cost of capital equipment is $154,000. The operation and maintenance cost was estimated at $190,000 per year. The total annualized cost in the previous ICR was, therefore, $344,000.

(4) *NSPS Subpart J:* NSPS for Petroleum Refineries (Subpart J); EPA ICR Number 1054.08; OMB Number 2060–0022; expiration date August 31, 2002.

Affected Entities: Entities potentially affected by this action are owners or operators of petroleum refineries subject to 40 CFR Part 60, Subpart J.

Abstract: In the Administrator's judgement, particulate matter, carbon monoxide, and sulfur oxide emissions from petroleum refineries cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare.

Owners or operators of the affected facilities must make one-time only notifications. Performance tests are also required to record the source's initial capability to comply with the emission standards and to ascertain the operating conditions under which compliance was achieved. The owner or operator of an affected facility is also required to install a continuous emission monitor (CEM) and record the emission levels of opacity, carbon monoxide, and sulfur dioxide or hydrogen sulfide, and report all periods of excess emissions. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction of an affected facility, or any period during which the CEM is inoperative. Quarterly reports of excess emissions are also required.

Burden Statement: In the previously approved ICR, the estimated number of respondents for this information collection was 130 with 197 responses per year. The annual industry reporting and recordkeeping burden for this collection of information was 19,045 hours. On the average, each respondent reported 1.5 times per year, and 97 hours were spent preparing each response. The annual reporting and recordkeeping cost burden was $123,000 per year which covers the cost of operation and maintenance of the CEM.

(5) *NSPS Subpart GGG:* NSPS for Petroleum Refineries (Subpart GGG); EPA ICR Number 0983.06; OMB Number 2060–0067; expiration date October 31, 2002.

Affected Entities: Entities potentially affected by this action are owners and operators of petroleum refineries subject 40 CFR Part 60, Subpart GGG.

Abstract: In the Administrator's judgement emissions from petroleum refineries cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare. 40 CFR Part 60, Subpart GGG was proposed on January 4, 1983, and promulgated on May 30, 1984. The standards under 40 CFR Part 60, Subpart GG apply to volatile organic compound (VOC) leaks, compressors and other petroleum refinery equipment, such as valves, pumps, and flanges within a subject process unit, that has commenced construction, modification, or reconstruction after the proposed date.

Owners or operators of the affected facilities must make one-time only notifications. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative.

40 CFR Part 60, Subpart GGG references the compliance requirements of 40 CFR Part 60, Subpart VV. Owners or operators are required to periodically (time period varies depending on equipment type and leak history) record information identifying leaking equipment, repair methods used to stop the leaks, and dates of repair. Semiannual reports are required to measure compliance with the standards of 40 CFR Part 60, Subpart VV as referenced by 40 CFR Part 60, Subpart GGG.

Burden Statement: In the previously approved ICR, the estimated number of respondents for this information collection was 48 with 108 responses per year. The annual industry reporting and recordkeeping burden for this collection of information was 6,137 hours. On the average, each respondent reported 2.3 times per year, and 57 hours were spent preparing each response. There was no annual reporting and recordkeeping cost burden associated with this information collection.

(6) *NESHAP–MACT Subpart PPP:* NESHAP for Polyether Polyol Production; EPA ICR Number 1811.03; OMB Control Number 2060–0415; expiration date July 31, 2002.

Affected Entities: Entities potentially affected by this action are those owners and operators of facilities which engage in the manufacturing of polyether polyol (which also include polyether mono-ols) that emit hazardous air pollutants (HAP) which are subject to 40 CFR Part 63, Subpart PPP.

Abstract: In the Administrator's judgement, the pollutants emitted from polyether polyols production cause or contribute significantly to air pollution that may reasonably be anticipated to endanger public health.

Owners or operators of polyether polyols production facilities, to which these standards apply, may choose one of the compliance options described in the standards, or install and monitor a specific control system that reduces HAP emissions to the compliance level. The respondents must comply with the general provisions at 40 CFR Part 63, Subpart A. These provisions include submitting the initial notification, providing a precompliance report, notification of compliance status, and semiannual reports. All respondents must submit an annual report of compliance for process vents, storage tanks, wastewater, and equipment leaks to the Agency that contains all the information requested at Section 63.1439 of these standards. Respondents must also submit semiannual reports containing the information at Section 63.1439 of these standards.

If the owner or operator identifies any deviation resulting from a known cause for which no federally-approved or promulgated exemption exists, the required compliance report must include all records that pertain to the periods during which such deviation occurred, as well as the following: The magnitude of each deviation; the reason for each deviation; a description of the corrective action taken for each deviation, including action taken to minimize each deviation and action taken to prevent recurrence; a copy of all quality assurance; and documentation addressing any changes in monitoring protocol.

Burden Statement: In the previously approved ICR, the estimated number of respondents for this information collection was 79 with 158 responses per year. The annual industry reporting and recordkeeping burden for this collection of information was 36,163 hours. On the average, each respondent reported 2 times per year, and 229 hours were spent preparing each response. The annual reporting and recordkeeping cost burden was $253,000 per year which reflected the capital/startup cost for monitoring devices.

(7) *NSPS Subpart WWW:* NSPS for Municipal Solid Waste Landfills (40 CFR Part 60, Subpart WWW); EPA ICR Number 1557.05; OMB Number 2060–0220; expiration date September 30, 2002.

Affected Entities: Entities potentially affected by this action are municipal solid waste landfills for which construction, modification or reconstruction commended on or after May 30, 1991 that are subject to 40 CFR Part 60, Subpart WWW.

Abstract: The Agency has determined that methane, carbon dioxide, and nonmethane organic gas compound emissions from municipal solid waste landfills cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare. These standards require the installation of properly designed emission control equipment, and the proper operation and maintenance of this equipment. These standards rely on the capture and reduction of methane, carbon dioxide, and nonmethane organic gas compound emissions by combustion devices (boilers, internal combustion engines, or flares).

Owners and operators of the affected facilities described must make initial reports when a source becomes subject, conduct and report on performance tests, provide annual or periodic reports

with regard to emission rates, report on design plan changes, report on equipment removal and closure, report on monitoring malfunctions and exceedances, and provide a plot map showing the location of all subject wells.

Burden Statement: In the previously approved ICR, the estimated number of respondents for this information collection was 172 with 299 responses per year. The annual industry reporting and recordkeeping burden for this collection of information was 3,379 hours. On the average, each respondent reported 1.7 times per year, and 11 hours were spent preparing each response.

The annualized cost of capital equipment is $79,000. The operation and maintenance costs were estimated at $2,000 per year. The total annualized cost requested is, therefore, $81,000.

Dated: January 23, 2002.

Michael M. Stahl,

Director, Office of Compliance.

[FR Doc. 02–2235 Filed 1–29–02; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34252; FRL–6820–2]

Oxyfluorfen; Availability of Risk Assessments (Interim Process)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of risk assessments that were developed as part of EPA's process for making pesticide Reregistration Eligibility Decisions (REDs) and tolerance reassessments consistent with the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA). These risk assessments are the human health and environmental fate and effects risk assessments and related documents for oxyfluorfen. This notice also starts a 60–day public comment period for the risk assessments. By allowing access and opportunity for comment on the risk assessments, EPA is seeking to strengthen stakeholder involvement and help ensure decisions made under FQPA are transparent and based on the best available information. The tolerance reassessment process will ensure that the United States continues to have the safest and most abundant food supply.

DATES: Comments, identified by the docket control number OPP–34252 for oxyfluorfen, must be received on or before January 30, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit II. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–34252 for oxyfluorfen in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Deanna Scher, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–7043; e-mail address: Scher.Deanna@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, nevertheless, a wide range of stakeholders will be interested in obtaining the risk assessments for oxyfluorfen, including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the use of pesticides on food. Since other entities also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. On the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. In addition, copies of the pesticide risk assessments released to the public may also be accessed at http://www.epa.gov/pesticides/reregistration/status.htm.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–34252. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. How Can I Respond to this Action?

A. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number for the specific chemical of interest in the subject line on the first page of your response.

1. *By mail*. Submit comments to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2.*In person or by courier*. Deliver comments to: Public Information and Records Integrity Branch, Information Resources and Services Division, Office of Pesticide Programs, Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically*. Submit electronic comments by e-mail to: opp-docket@epa.gov or you can submit a computer disk as described in this unit. Do not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file, avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on standard computer disks in WordPerfect 6.1/8.0/9.0 or ASCII file format. All comments in electronic form must be identified by

the docket control number of the chemical of specific interest. Electronic comments may also be filed online at many Federal Depository Libraries.

B. How Should I Handle CBI Information that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

III. What Action is the Agency Taking?

EPA is making available to the public the risk assessments that have been developed as part of the Agency's interim public participation process for tolerance reassessment and reregistration. During the next 60 days, EPA will accept comments on the human health and environmental fate and effects risk assessments and other related documents for oxyfluorfen, available in the individual pesticide docket. Like other REDs for pesticides developed under the interim process, the oxyfluorfen RED will be made available for public comment.

EPA and United States Department of Agriculture (USDA) have been using a pilot public participation process for the assessment of organophosphate pesticides since August 1998. In considering how to accomplish the movement from the current pilot being used for the organophosphate pesticides to the public participation process that will be used in the future for non-organophosphates, such as oxyfluorfen, EPA and USDA have adopted an interim public participation process. EPA is using this interim process in reviewing the non-organophosphate pesticides scheduled to complete tolerance reassessment and reregistration in 2001 and early 2002. The interim public participation process ensures public access to the Agency's risk assessments while also allowing EPA to meet its reregistration commitments. It takes into account that the risk assessment development work on these pesticides is substantially complete. The interim public participation process involves: A registrant error correction period; a period for the Agency to respond to the registrant's error correction comments; the release of the refined risk assessments and risk characterizations to the public via the docket and EPA's internet website; a significant effort on stakeholder consultations, such as meetings and conference calls; and the issuance of the risk management decision document (i.e., RED) after the consideration of issues and discussions with stakeholders. USDA plans to hold meetings and conference calls with the public (i.e., interested stakeholders such as growers, USDA Cooperative Extension Offices, commodity groups, and other Federal government agencies) to discuss any identified risks and solicit input on risk management strategies. EPA will participate in USDA's meetings and conference calls with the public. This feedback will be used to complete the risk management decisions and the RED. EPA plans to conduct a close-out conference call with interested stakeholders to describe the regulatory decisions presented in the RED. REDs for pesticides developed under the interim process will be made available for public comment.

Included in the public version of the official record are the Agency's risk assessments and related documents for oxyfluorfen. As additional comments, reviews, and risk assessment modifications become available, these will also be docketed. The oxyfluorfen risk assessments reflect only the work and analysis conducted as of the time they were produced and it is appropriate that, as new information becomes available and/or additional analyses are performed, the conclusions they contain may change.

List of Subjects

Environmental protection, Chemicals, Pesticides and pests.

Dated: January 14, 2002.

Lois A. Rossi,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 02–2237 Filed 1–29– 02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34164C; FRL–6821–1]

Organophosphate Pesticides; Availability of Interim Risk Management Decision Documents

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of the interim risk management decision documents for one organophosphate pesticide, acephate. These decision documents have been developed as part of the public participation process that EPA and the U.S. Department of Agriculture (USDA) are now using for involving the public in the reassessment of pesticide tolerances under the Food Quality Protection Act (FQPA), and the reregistration of individual organophosphate pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

DATES: The interim risk management decision document is available under docket control number OPP–34164C.

FOR FURTHER INFORMATION CONTACT: Kimberly Lowe, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8059; e-mail address: lowe.kimberly@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, nevertheless, a wide range of stakeholders will be interested in obtaining the interim risk management decision documents for acephate, including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the use of pesticides on food. Since other entities also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, and

certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. In addition, copies of the pesticide interim risk management decision documents released to the public may also be accessed at http://www.epa.gov/pesticides/reregistration/status.htm.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–34164C. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. What Action is the Agency Taking?

Acephate residues in food and drinking water do not pose risk concerns, and by reducing exposure in homes and through residential lawns, acephate fits into its own ''risk cup.'' EPA made this determination after the registrants agreed to drop indoor residential uses and certain turf uses. With other mitigation measures, acephate's worker and ecological risks also will be below levels of concern for reregistration.

The interim risk management decision documents for acephate were made through the organophosphate pesticide pilot public participation process, which increases transparency and maximizes stakeholder involvement in EPA's development of risk assessments and risk management decisions. The pilot public participation process was developed as part of the EPA-USDA Tolerance Reassessment Advisory Committee (TRAC), which was established in April 1998, as a subcommittee under the auspices of EPA's National Advisory Council for Environmental Policy and Technology (NACEPT). A goal of the pilot public participation process is to find a more effective way for the public to participate at critical junctures in the Agency's development of organophosphate pesticide risk assessments and risk management decisions. EPA and USDA began implementing this pilot process in August 1998, to increase transparency and opportunities for stakeholder consultation.

EPA worked extensively with affected parties to reach the decisions presented in the interim risk management decision documents, which conclude the pilot public participation process for acephate. As part of the pilot public participation process, numerous opportunities for public comment were offered as these interim risk management decision documents were being developed. The acephate interim risk management decision documents therefore are issued in final, without a formal public comment period. The docket remains open, however, and any comments submitted in the future will be placed in the public docket.

The risk assessments for acephate were released to the public through notices published in the **Federal Register** of January 20, 2000 (65 FR 3231) (FRL–6489–2), and February 22, 2000 (65 FR 8702) (FRL–6492–2).

EPA's next step under FQPA is to complete a cumulative risk assessment and risk management decision for the organophosphate pesticides, which share a common mechanism of toxicity. The interim risk management decision documents on acephate cannot be considered final until this cumulative assessment is complete.

When the cumulative risk assessment for the organophosphate pesticides has been completed, EPA will issue its final tolerance reassessment decision(s) for acephate and further risk mitigation measures may be needed.

List of Subjects

Environmental protection, Chemicals, Pesticides and pests.

Dated: January 18, 2002.

Lois A. Rossi,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 02–2238 Filed 1–29–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–181083; FRL–6819–3]

Norflurazon; Receipt of Application for Emergency Exemption,Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a specific exemption request from the Alabama Department of Agriculture and Industries to use the pesticide norflurazon (CAS No. 27314–13–2) to treat up to 60,000 acres of bermuda grass meadows to control annual grassy weeds. The Applicant proposes a use which has been requested in 3 or more previous years, and the petition for a tolerance was recently withdrawn by the registrant for financial reasons. EPA is soliciting public comment before making the decision whether or not to grant the exemption.

DATES: Comments, identified by docket control number OPP–181083, must be received on or before February 14, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–181083 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Libby Pemberton, Registration Division (7505C, Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–9364; fax number: (703) 308–5433; e-mail address: pemberton.libby@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you petition EPA for emergency exemption under section 18 of FIFRA. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS Codes	Examples of potentially affected entities
State government	9241	State agencies that petition EPA for section 18 pesticide exemption

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. Other types of entities not listed in the table in this unit could also be regulated. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action applies to certain entities. To determine whether you or your business is affected by this action, you should carefully examine the applicability provisions in this unit. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–181083. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–181083 in the subject line on the first page of your response.

1.*By mail*. Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3.*Electronically*. You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–181083. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the proposed rule or collection activity.

7. Make sure to submit your comments by the deadline in this document.

8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Background

A. What Action is the Agency Taking?

Under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), at the discretion of the Administrator, a Federal or State agency may be exempted from any provision of FIFRA if the Administrator determines that emergency conditions exist which require the exemption. The Alabama Department of Agriculture and Industries has requested the Administrator to issue a specific exemption for the use of norflurazon on bermuda grass meadows to control annual grassy weeds. Information in accordance with 40 CFR part 166 was submitted as part of this request.

As part of this request, the Applicant asserts that bermuda grass requires at least 2 years to completely cover a planted area and successfully compete with annual grassy weeds. Successful establishment during the first 2 years is critically important to profitable

production from a bermuda grass hay meadow. Annual grassy weed encroachment and resulting variable bermuda grass stands will reduce the quantity of hay produced and the overall quality. A hay field does not reach maximum hay production for 3 or 4 years after establishment depending on the degree of success in establishment. For the next 6 to 7 years, growers should receive maximum economic yield and return on their annual investments. The market will not accept bermuda grass hay contaminated with weeds or annual grasses. Bermuda grass stands often begin to decline after about 10 years due to diseases, insect problems, fertility imbalances, or environmental stresses. Establishment of a new stand of bermuda grass is the most cost effective way of maintaining maximum quality and quantity of hay. Atrazine and simazine, which traditionally provided control of these weeds, were voluntarily canceled in 1990. There are no currently registered effective herbicides for this use. Over a 5-year period, only the use of norflurazon provides a positive net return to the hay producer.

The Applicant proposes to make no more than one application of norflurazon manufactured by Syngenta Crop Protection, Inc. as Zorial Rapid 80, EPA Reg. No. 100–848, at a rate of 0.5 - 1.2 lb active ingredient/Acre (.6 - 1.5 lb product/Acre) by ground to 60,000 acres of bermuda grass meadows between February 1 and July 31, 2002.

This notice does not constitute a decision by EPA on the application itself. The regulations governing section 18 of FIFRA require publication of a notice of receipt of an application for a specific exemption proposing a use which has been requested in 3 or more previous years, and a petition for a tolerance has not yet been submitted to the Agency. The notice provides an opportunity for public comment on the application.

The Agency, will review and consider all comments received during the comment period in determining whether to issue the specific exemption requested by the Alabama Department of Agriculture and Industries.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: January 10, 2002.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 02–1882 Filed 1–29–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7135–5]

Methods for Collection, Storage, and Manipulation of Sediments for Chemical and Toxicological Analyses: Technical Manual

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is publishing a technical manual containing recommendations for collecting, handling, and manipulating sediment samples for physiochemical characterization and biological testing. This technical manual provides a compilation of methods that are most likely to yield accurate, representative sediment quality data based on the experience of many monitoring programs and researchers.

Availability of Document: Copies of the complete document, titled Methods for Collection, Storage, and Manipulation of Sediments for Chemical and Toxicological Analyses: Technical Manual (EPA–823–B–01–002) can be obtained from the National Service Center for Environmental Publications, P.O. Box 42419, Cincinnati, OH 45242, by phone at 1–800–490–9198 or on their Web site at *www.epa.gov/ncepihom/orderpub.html.* A pdf version of this document is available to be viewed or downloaded from the Office of Science and Technology's Web site on the Internet at *www.epa.gov/waterscience/cs.*

FOR FURTHER INFORMATION CONTACT: Richard Healy, EPA, Standards and Health Protection Division (4305), Office of Science and Technology, Ariel Rios Building, 1200 Pennsylvania Avenue, NW, Washington, DC 20460; or call (202) 260–7812; fax (202) 260–9830; or e-mail *healy.richard@epa.gov.*

SUPPLEMENTARY INFORMATION:

Background Information

Sediment contamination is a widespread environmental problem that can pose a threat to a variety of aquatic ecosystems. Sediment functions as a reservoir for common contaminants such as pesticides, herbicides, polychlorinated biphenyls (PCBs), polycyclic aromatic hydrocarbons (PAHs), and metals such as lead, mercury, and arsenic. Contaminated sediments represent a hazard to aquatic life through direct toxicity as well as to aquatic life, wildlife and human health through bioaccumulation.

Assessments of sediment quality commonly include analyses of anthropogenic contaminants, benthic community structure, physicochemical characteristics and direct measures of whole sediment and pore water toxicity. Accurate assessment of environmental hazard posed by sediment contamination depends in large part on the accuracy and representativeness of these analyses. The methods described in this Manual provide sediment collection, storage, and manipulation methods that are most likely to yield accurate, representative sediment quality data (*e.g.,* sediment chemistry and toxicity) based on the experience of many monitoring programs and researchers. Information contained in this manual reflects the knowledge and experience of organizations that have developed internationally-recognized procedures and protocols. These organizations include:

- American Society for Testing and Materials,
- Puget Sound Estuary Program,
- Washington State Department of Ecology,
- US Environmental Protection Agency,
- US Army Corps of Engineers,
- National Oceanographic and Atmospheric Administration, and
- Environment Canada.

This manual provides technical support to those who design or perform sediment quality studies under a variety of regulatory and non-regulatory programs. The methods contained are widely relevant for anyone wishing to collect consistent, high quality sediment data. This manual is not guidance on how to implement any specific regulatory requirement but rather a compilation of technical methods on how to best collect environmental samples that most accurately reflect environmental conditions. This technical manual has no immediate or direct regulatory consequence. It does not impose legally binding requirements and may not apply to a particular situation depending on the circumstances. The EPA may change this technical manual in the future. EPA's Office of Science and Technology has reviewed and approved this technical manual for publication. Mention of trade names or commercial products constitutes neither endorsement by the EPA nor recommendation for use.

Dated: November 27, 2001.

Geoffrey H. Grubbs,

Director, Office of Science and Technology.

[FR Doc. 02–2236 Filed 1–29–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7135–6]

Proposed Administrative Settlement Under the Comprehensive Environmental Response, Compensation, and Liability Act

AGENCY: Environmental Protection Agency.

ACTION: Request for public comment.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to enter into an Agreement for Recovery of Past Response Costs pursuant to Section 122(h)(1) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. 9622(h)(1). This proposed settlement is intended to resolve the liability under CERCLA of St. Jude Polymer Corporation for past response costs incurred by the United States Environmental Protection Agency and the United States Department of Justice in connection with the Metropolitan Mirror and Glass, Inc. Superfund Site, located in Frackville, Schuylkill County, Pennsylvania.

DATES: Comments must be provided on or before March 1, 2002.

ADDRESS: Comments should be addressed to Suzanne Canning, Docket Clerk, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103, and should refer to the Metropolitan Mirror and Glass Site, Frackville, Schuylkill County, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Joan A. Johnson (3RC41),215/814–2619, U.S. Environmental Protection Agency, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

SUPPLEMENTARY INFORMATION: Notice of the past response costs settlement: In accordance with Section 122(h)(1) of CERCLA, 42 U.S.C. 122(h)(1), notice is hereby given of a proposed administrative settlement concerning the Metropolitan Mirror and Glass, Inc. Site in Frackville, Schuylkill County, Pennsylvania. The administrative settlement is subject to review by the public pursuant to this Notice. This agreement is also subject to the approval of the Attorney General, United States Department of Justice or his designee.

Pursuant to the proposed administrative settlement, St. Jude Polymer Corporation (St. Jude), the settling respondent, has agreed to pay $5,000 to the Hazardous Substances Trust Fund subject to the contingency that EPA may elect not to complete the settlement if comments received from the public during this comment period disclose facts or considerations which indicate the proposed settlement is inappropriate, improper, or inadequate. This amount to be paid by St. Jude will be applied towards past response costs incurred by EPA and the United States Department of Justice in connection with the Site.

EPA is entering into this agreement under the authority of Section 122(h) of CERCLA, 42 U.S.C. 9622(h). As part of this cost recovery settlement, EPA will grant St. Jude a covenant not to sue or take administrative action against St. Jude for reimbursement of past response costs pursuant to Section 107 of CERCLA, 42 U.S.C. 9607, with regard to the Site.

The Environmental Protection Agency will receive written comments relating to this settlement for thirty (30) days from the date of publication of this Notice. A copy of the proposed Agreement for Recovery of Past Response Costs can be obtained from Joan A. Johnson, U.S. Environmental Protection Agency, Region III, Office of Regional Counsel, 1650 Arch Street, Philadelphia, Pennsylvania, 19103 or by contacting Joan A. Johnson at (215) 814–2619.

Dated: January 17, 2002.

Thomas C. Voltaggio,

Acting Regional Administrator, U.S. Environmental Protection Agency, Region III.

[FR Doc. 02–2233 Filed 1–29–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7135–7]

Proposed Settlement Under Section 122(h) of the Comprehensive Environmental Response, Compensation and Liability Act, as Amended, 42 U.S.C. 9622(h), Old Glenwood School Asbestos Site, Glenwood, Washington

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed settlement and request for public comment.

SUMMARY: In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation and Liability Act, as amended by the Superfund Amendment and Reauthorization Act (''CERCLA''), notice is hereby given of a proposed settlement to resolve a claim against Old Glenwood School Asbestos Site. The proposed settlement concerns the Federal Government's past response costs at the Old Glenwood School Asbestos Site, Glenwood, Washington. The settlement requires the settling parties, Jimmie Howard and Jean Howard, to pay $6,000.00 to the Hazardous Substance Superfund. For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the settlement. The Agency's response to any comments received will be available for public inspection at the U.S. Environmental Protection Agency, Region 10, office at 1200 Sixth Avenue, Seattle, Washington 98101. A copy of the proposed settlement may be obtained from Carol Kennedy, Regional Hearing Clerk, EPA, Region 10, 1200 Sixth Avenue (ORC–158), Seattle, Washington 98101, telephone number (206) 553–0242. Comments should reference the ''Old Glenwood School Asbestos Site'' and EPA Docket No. CERCLA–10–2002–0021 and should be addressed to Ms. Kennedy at the above address.

FOR FURTHER INFORMATION CONTACT: Richard McAllister, Assistant Regional Counsel, EPA Region 10, Office of Regional Counsel, 1200 Sixth Avenue, Seattle, Washington 98101, telephone number (206) 553–8203.

Dated: January 22, 2002.

L. John Iani,

Regional Administrator, Region 10.

[FR Doc. 02–2234 Filed 1–29–02; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2526]

Petitions for Reconsideration and Clarification of Action in Rulemaking Proceeding

January 15, 2002.

Petitions for Reconsideration and Clarification have been filed in the Commission's rulemaking proceeding listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of this document is available for viewing and copying in Room CY–A257, 445 12th Street, SW., Washington, DC or may be purchased from the Commission's copy contractor, Qualex International (202) 863–2893. Oppositions to these petitions must be filed by February 14, 2002. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions have expired.

Subject: Federal-State Joint Board on Universal Service (CC Docket No. 96–45);

In the Matter of Access Charge Reform for Incumbent Local Exchange Carriers Subject to Rate-of-Return Regulation (CC Docket No. 98–77);

In the Matter of Prescribing the Authorized Unitary Rate of Return for Interstate Services of Local Exchange Carriers (CC Docket No. 98–166);

In the Matter of Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers (CC Docket No. 00–256).

Number of Petitions Filed: 10.

Magalie Roman Salas,

Secretary.

[FR Doc. 02–2221 Filed 1–29–02; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than February 14, 2002.

A. Federal Reserve Bank of Cleveland (Stephen J. Ong, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101–2566:

1. John William Straker, Bonita Springs, Florida, and John William Straker, Jr., Granville, Ohio; to retain voting shares of BancFirst Ohio Corp., Zanesville, Ohio, and thereby indirectly retain voting shares of First National Bank, Zanesville, Ohio.

B. Federal Reserve Bank of Kansas City (Susan Zubradt, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. Edward Palmer Milbank, Chillicothe, Missouri, as trustee of the Edward P. Milbank Trust and the John P. Milbank Trust, both of Chillicothe, Missouri; to retain voting shares of IFB Holdings, Inc., Chillicothe, Missouri, and thereby indirectly retain voting shares of Investors Federal Bank, NA, Chillicothe, Missouri.

Board of Governors of the Federal Reserve System, January 24, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–2202 Filed 1–29–02; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 25, 2002.

A. Federal Reserve Bank of Minneapolis (Julie Stackhouse, Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. Frandsen Financial Corporation, Arden Hills, Minnesota; to merge with Community National Corporation, Grand Forks, North Dakota, and thereby indirectly acquire Community National Bank of Grand Forks, Grand Forks, North Dakota.

In connection with this application, Applicant also has applied to acquire voting shares of Document Processing & Imaging Corporation, Grand Forks, North Dakota, and thereby engage in providing check imaging services for financial institutions pursuant to section 225.28(b)(14) of Regulation Y.

Board of Governors of the Federal Reserve System, January 24, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–2201 Filed 1–29–02; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 26, 2002.

A. Federal Reserve Bank of San Francisco (Maria Villanueva, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105–1579:

1. Landmark Bancorp, Anaheim, California; to become a bank holding

company by acquiring up to 100 percent of the voting shares of Greater Pacific Bancshares, Whittier, California, and thereby indirectly acquire Bank of Whittier, N.A., Whittier, California.

Board of Governors of the Federal Reserve System, January 25, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–2266 Filed 1–29–02; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 67-2442) published on page 893 of the issue for Tuesday, January 8, 2002.

Under the Federal Reserve Bank of Dallas heading, the entry for Pubco Bancshares, Inc., Slaton, Texas, is revised to read as follows:

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272)

1. Lubco Bancshares, Inc., Slaton, Texas; to acquire 100 percent of the voting shares of Shamrock Bancshares, Inc., Shamrock, Texas, and thereby indirectly acquire voting shares of Shamrock Delaware Financial, Inc., Dover, Delaware, and First National Bank, Shamrock, Texas.

Comments on this application must be received by February 1, 2002.

Board of Governors of the Federal Reserve System, January 25, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–2267 Filed 1–29–00; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: April 2002 Current Population Survey Supplement on Child Support

OMB No.: 0992–0003

Description: Collection of these data will assist legislators and policymakers in determining how effective their policymaking efforts have been over time in apply the various child support legislation to the overall child support enforcement picture. This information will help policymakers determine to what extent individuals on welfare would be removed from the welfare rolls as a result of more stringent child support enforcement efforts.

Respondents: Individuals and households

Annual Burden Estimates:

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Child Support Survey	47,000	1	.0246	1136
Estimated Total Annual Burden Hours				1136

Additional Information: Copies of the proposed collection may be obtained by writing to The Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer.

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, NW., Washington, DC 20503, Attn: Desk Officer for ACF.

Dated: January 22, 2002.

Bob Sargis,

Reports Clearance Officer.

[FR Doc. 02–2222 Filed 1–29–02; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. OCS–2002–04]

Request for Applications Under the Office of Community Services' Fiscal Year 2002 National Youth Sports Program (NYSP Program)

AGENCY: Office of Community Services (OCS), Administration for Children and Families, Department of Health and Human Services.

ACTION: Announcement of availability of funds and request for competitive applications under the Office of Community Services' National Youth Sports Program.

SUMMARY: The Administration for Children and Families (ACF), Office of Community Services (OCS) announces that competing applications will be accepted for new grants pursuant to the Secretary's discretionary authority under Section 682 of the Community Services Block Grant Act, as amended, 42 U.S.C 9923.

This announcement is inviting applications for project periods up to 5 years. Awards, on a competitive basis, will be for a one-year budget period, although project periods may be for 5 years. Applications for continuation grants funded under these awards beyond the one-year budget period but within the 5 year project period will be entertained in subsequent years on a noncompetitive basis, subject to availability of funds, satisfactory progress of the grantee and a determination that continued funding would be in the best interest of the Government.

CLOSING DATE: The closing date and time for receipt of applications is 4:30 p.m., (Eastern Time Zone), on April 1, 2002. Mailed or hand carried applications received after 4:30 p.m. on the closing date will be classified as late.

FOR FURTHER INFORMATION CONTACT: Veronica Terrell (202) 401–5295, *vterrell@acf.dhhs.gov* or Richard Saul, rsaul@acf.dhhs.gov, Department of Health and Human Services, Administration for Children and Families, Office of Community Services, 5th Floor West, 370 L'Enfant Promenade, SW., Washington, DC 20447. In addition, this Announcement is accessible on the OCS WEBSITE for reading and downloading at: *http://www.acf.dhhs.gov/programs/ocs—*

Double click on Funding Opportunities. The Catalog of Federal Domestic Assistance (CFDA) number for this program is 93.570. The title is National Youth Sports Program (NYSP Program).

Paperwork Reduction Act of 1995

All information collections within this program announcement are approved under the following currently valid OMB control number 0970–0139 which expires 12/31/2003.

Public reporting burden for this collection of information is estimated to average 10 hours per response, including the time for reviewing instructions, gathering and maintaining the data needed and reviewing the collection information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

SUPPLEMENTARY INFORMATION: This program announcement consists of seven parts plus Attachments:

Part I: Introduction

Legislative authority, definition of terms, and purpose.

Part II: Background Information

Eligible applicants, program priority area, project and budget period, availability of funds and grant amounts, matching funds requirements, program participants and beneficiaries.

Part III: The Project Description, Program Proposal Elements and Review Criteria

Purpose, project summary/abstract, objectives and need for assistance, results or benefits expected, organizational profiles, budget justification, administrative costs and indirect costs, non-federal resources, and evaluation/review criteria.

Part IV: Applicaiton Procedures

Availability of forms, application submission, application consideration, and application screening.

Part V: Instructions for Completing Applications Forms: SF 424, SF 424A, and SF 424B

Part VI: Contents of Application and Receipt Process

Content and order of application and acknowledgment of receipt.

Part VII: Post Award Information and Reporting Requirements

Notification of grant award, reporting requirements, audit requirements, prohibitions and requirements with regard to lobbying.

Part I. Introduction

A. Legislative Authority

Section 682 of the Community Services Block Grant Act, as amended, 42 U.S.C. 9923 authorizes the Secretary of Health and Human Services to make a grant to an eligible service provider to administer national or regional programs designed to provide instructional activities for low-income youth.

B. Definitions of Terms

For purposes of this Program Announcement the following definitions apply:

—Low-income youth: a youth between the ages of 10 through 16 whose family income does not exceed the DHHS Poverty Income Guidelines (see Attachment A).
—Budget period: The interval of time into which a grant period of assistance is divided for budgetary and funding purposes.
—Project period: The total time for which a project is approved for support, including any approved extensions.
—Secretary: Means the Secretary of Health and Human Services, acting through the Director of the Office of Community Services.

C. Program Purpose

The Department of Health and Human Services is committed to improving the health and physical fitness of young people, particularly those that are members of low-income families and residents of economically disadvantaged areas of the United States.

Part II—Background Information

A. Eligible Applicants

A service provider that is a national private, non-profit organization, a coalition of such organizations, or a private, non-profit organization applying jointly with a business concern and faith-based organizations shall be eligible to apply for a grant under this section if:

1. the applicant has demonstrated experience in operating a program providing instruction to low-income youth;

2. the applicant agrees to contribute an amount (in cash or in-kind, fairly evaluated) of not less than 25 per cent of the amount requested, for the program funded through the grant;

3. the applicant agrees to use no funds from a grant authorized under this section for administrative expenses; and

4. the applicant agrees to comply with the regulations or program guidelines promulgated by the Secretary for use of funds made available through the grant.

B. Program Priority Area

There is one Program Priority Area under this announcement.

C. Project and Budget Period (See Definition of Terms)

The project period will be 60 months (5 years), with budget periods not to exceed 12 months. A significant amount of the program activities must be undertaken in the period covering June, July and August of each fiscal year.

D. Availability of Funds and Grants Amounts

In Fiscal Year 2002, OCS expects approximately $17,000,000 to be available for funding commitments to approximately one new project under this program. For Fiscal Years 2003–2006, OCS anticipates, subject to the availability of funds, that one non-competing continuation grant will be made under this program.

E. Matching Funds Requirements

The grant requires a match of either cash or third party in-kind, fairly evaluated and not less than 25% of the Federal funds requested.

F. Program Participants/Beneficiaries

Projects proposed for funding under this announcement must result in direct benefits targeted toward youth between the ages of 10–16 from low-income families.

Attachment A of the appendices to this announcement is an excerpt from the HHS Poverty Income Guidelines currently in effect. Annual revisions of these Guidelines are normally published in the **Federal Register** in February or early March of each year and are applicable to projects being implemented during the year subsequent to publication. Grantees will be required to apply the most recent Guidelines throughout the project period. No other government agency or privately defined poverty guidelines are applicable to the determination of low-income eligibility for this OCS funded program.

G. Multiple Submittals and Multiple Grants

An applicant organization should not submit more than one application under this Program Announcement.

H. Maintenance of Effort

The activities funded under this program announcement must be in addition to, and not in substitution for, activities previously carried on without

Federal assistance. A Certificate of Maintenance of Effort must be included with the application (See Attachment J).

Part III. The Project Description, Program Proposal Elements and Review Criteria

A. Purpose

The project description provides the major means by which an application is evaluated and ranked to compete with other applications for available assistance. The project description should be concise and complete and should address the activity for which Federal funds are being requested. Supporting documents should be included where they can present information clearly and succinctly. Applicants should provide information on their organizational structure, staff, related experience, and other information considered to be relevant. Awarding offices use this and other information to determine whether the applicant has the capability and resources necessary to carry out the proposed project. It is important, therefore, that this information be included in the application. However, in the narrative the applicant must distinguish between resources directly related to the proposed project and those resources that will not be used in support of the specific project for which funds are requested.

B. Project Summary/Abstract

Provide a summary of the project description (a page or less) with reference to the funding request.

C. Objectives and Need for Assistance

Clearly identify the physical, economic, social, financial, instructional, and/or other problem(s) requiring solution. The need for assistance must be demonstrated and the principal and subordinate objectives of the proposal must be clearly stated; supporting documentation, such as letters of support and testimonials from concerned interests other than the applicant, may be included. Any relevant data based on planning studies should be included or referred to in the endnotes/footnotes. Incorporate demographic data and participant/beneficiary information, as needed. In developing the project description, the applicant may volunteer or be requested to provide information on the total range of projects currently being conducted and supported (or to be initiated), some of which may be outside the scope of the program announcement.

D. Results or Benefits Expected

Identify the results and benefits to be derived.

E. Approach

Outline a plan of action which describes the scope and detail of how the proposed work will be accomplished. Account for all functions or activities identified in the application. Cite factors which might accelerate or decelerate the work and state your reason for taking the proposed approach rather than others. Describe any unusual features of the project such as design or technological innovations, reductions in cost of time, or extraordinary social and community involvement.

Provide quantitative monthly or quarterly projections of the accomplishments to be achieved for each function or activity in such terms as the number of people to be served. When accomplishments cannot be quantified by activity or function, list them in chronological order to show the schedule or accomplishments and their target dates.

If any data is to be collected, maintained, and/or disseminated, clearance may be required from the U.S. Office of Management and Budget (OMB). This clearance pertains to any ''collection of information that is conducted or sponsored by ACF.''

List organizations, cooperating entities, consultants, or other key individuals who will work on the project along with a short description of the nature of their effort or contribution.

F. Organizational Profiles

Provide information on the applicant organization(s) and cooperating partners such as organizational charts, financial statements, audit reports or statements from CPAs/Licensed Public Accountants, Employer Identification Numbers, names of bond carriers, contact persons and telephone numbers, child care licenses and other documentation of professional accreditation, information on compliance with Federal/State/local government standards, documentation of experience in the program area, and other pertinent information. Any non-profit organization submitting an application must submit proof of its non-profit status in its application at the time of submission. The non-profit agency can accomplish this by providing a copy of the applicant's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in Section 501(c)(3) of the IRS code, *or,* by providing a copy of the currently valid IRS tax exemption certificate, *or,* by providing a copy of the articles of incorporation bearing the seal of the State in which the corporation or association is domiciled.

G. Budget and Budget Justification

Provide a line item detail and detailed calculations for each budget object class identified on the Budget Information form. Detailed calculations must include estimation methods, quantities, unit costs, and other similar quantitative details sufficient for the calculation to be duplicated. The detailed budget must also include a breakout by the funding sources identified in Block 15 of the SF–424.

Provide a narrative budget justification that describes how categorical costs are derived. Discuss the necessity, reasonableness, and allocability of the proposed costs.

The following guidelines are for preparing the budget and budget justification. Both Federal and non-Federal resources must be detailed and justified in the budget and narrative justification. For purposes of preparing the budget and budget justification, ''Federal resources'' refers only to the ACF grant for which you are applying. Non-Federal resources are all other Federal and non-Federal resources. It is suggested that budget amounts and computations be presented in a columnar format: first column, object class categories; second column, Federal budget; next column(s), non-Federal budget(s), and last column, total budget. The budget justification should be a narrative.

Personnel

Description: Costs of employee salaries and wages.

Justification: Identify the project director or principal investigator, if known. For each staff person, provide the title, time commitment to the project (in months), time commitment to the project (as a percentage or full-time equivalent), annual salary, grant salary, wage rates, etc. Do not include the costs of consultants or personnel costs of delegate agencies or of specific project(s) or businesses to be financed by the applicant. Administrative costs may not be charged to the Federal grant.

Fringe Benefits

Description: Costs of employee fringe benefits unless treated as part of an approved indirect cost rate.

Justification: Provide a breakdown of the amounts and percentages that comprise fringe benefit costs such as

health insurance, FICA, retirement insurance, taxes, etc.

Travel

Description: Costs of project-related travel by employees of the applicant organization (does not include costs of consultant travel).

Justification: For each trip, show the total number of traveler(s), travel destination, duration of trip, per diem, mileage allowances, if privately owned vehicles will be used, and other transportation costs and subsistence allowances.

Equipment

Description: ''Equipment'' means an article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition cost which equals or exceeds the lesser of (a) the capitalization level established by the organization for the financial statement purposes, or (b) $5,000. (Note: Acquisition cost means the net invoice unit price of an item of equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired. Ancillary charges, such as taxes, duty, protective in-transit insurance, freight, and installation shall be included in or excluded from acquisition cost in accordance with the organization's regular written accounting practices.)

Justification: For each type of equipment requested, provide a description of the equipment, the cost per unit, the number of units, the total cost, and a plan for use on the project, as well as use or disposal of the equipment after the project ends. An applicant organization that uses its own definition for equipment should provide a copy of its policy or section of its policy which includes the equipment definition.

Supplies

Description: Costs of all tangible personal property other than that included under the Equipment category.

Justification: Specify general categories of supplies and their costs. Show computations and provide other information which supports the amount requested.

Contractual

Description: Costs of all contracts for services and goods except for those which belong under other categories such as equipment, supplies, construction, etc. Third-party evaluation contracts (if applicable) and contracts with secondary recipient organizations, including delegate agencies and specific project(s) or businesses to be financed by the applicant, should be included under this category.

Justification: All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. Recipients and subrecipients, other than States that are required to use procedures in 45 CFR part 92, must justify any anticipated procurement action that is expected to be awarded without competition and exceed the simplified acquisition threshold fixed at 41 U.S.C. 403(11) (currently set at $100,000). Recipients might be required to make available to ACF pre-award review and procurement documents, such as request for proposals or invitations for bids, independent cost estimates, etc.

Note: Whenever the applicant intends to delegate part of the project to another agency, the applicant must provide a detailed budget and budget narrative for each delegate agency, by agency title, along with the required supporting information referred to in these instructions.

Other

Indicate the totals for all other costs. Such costs, where applicable and appropriate, may include but are not limited to insurance, food, medical and dental costs (noncontractual), professional services costs, space and equipment rentals, printing and publication, computer use, training costs, such as tuition and stipends, staff development costs, and administrative costs.

Justification: Provide computations, a narrative description and a justification for each cost under this category.

H. Administrative Costs

No federal funds from a grant made under this program may be used for administrative expenses.

I. Indirect Costs

Total amount of indirect costs. This category should be used only when the applicant currently has an indirect cost rate approved by the Department of Health and Human Services (HHS) or another cognizant Federal agency.

Justification: An applicant that will charge indirect costs to the grant must enclose a copy of the current rate agreement. If the application organization is in the process of initially developing or renegotiating a rate, it should immediately upon notification that an award will be made, develop a tentative indirect cost rate proposal based on its most recently completed fiscal year in accordance with the principles set forth in the cognizant agency's guidelines for establishing indirect cost rates, and submit it to the cognizant agency. Applicants awaiting approval of their indirect cost proposals may also request indirect costs. It should be noted that when an indirect cost rate is requested, those costs included in the indirect cost pool should not also be charged as direct costs to the grant. Also, if the applicant is requesting a rate which is less than what is allowed under the program, the authorized representative of the applicant organization must submit a signed acknowledgment that the applicant is accepting a lower rate than allowed.

J. Program Income

The estimated amount of income, if any, expected to be generated from this project.

Justification: Describe the nature, source and anticipated use of program income in the budget or refer to the pages in the application which contain this information.

K. Non-Federal Resources

Amounts of non-Federal resources that will be used to support the project as identified in Block 15 of the SF–424.

Justification: The firm commitment of these resources must be documented and submitted with the application in order to be given credit in the review process. A detailed budget must be prepared for each funding source.

L. Evaluation Criteria

Each application which passes the initial screening will be addressed and scored by three independent reviewers. Each reviewer will give a numerical score for each application reviewed. These numerical scores will be supported by explanatory statements on a formal rating form describing major strengths and weaknesses under each applicable criterion published in the Announcement. Scoring will be based on a total of 100 points, and for each application will be the average of the scores of the three reviewers.

The competitive review of proposals will be based on the degree to which applicants adhere to the program requirements and incorporate each of the Elements and Sub-Elements below into their proposals.

Review Criteria—Proposal Elements and Review Criteria for Applications

Purpose

Any instructional activity carried out by an eligible service provider receiving a grant under this program announcement shall be carried out on the campus of an institution of higher

education (as defined in section 1201(a) of the Higher Education Act) and shall include—

a. Access to the facilities and resources of such institution;

b. An initial medical examination and follow-up referral or treatment, without charge, for youth during their participation in such activity;

c. At least one nutritious meal daily, without charge, for participating youth during each day of participation;

d. High quality instruction in a variety of sports (that shall include swimming and that may include dance and any other high quality recreational activity) provided by coaches and teachers from institutions of higher education and from elementary and secondary schools (as defined in section 14101 of the Elementary and Secondary Education Act of 1965); and

e. Enrichment instruction and information on matters relating to the well-being of youth, to include educational opportunities and study practices, education for the prevention of drug and alcohol abuse, health and nutrition, career opportunities, and family and job responsibilities.

The eligible service provider shall, in each community in which a program is funded shall ensure that:

a. A community-based advisory committee is established, with representatives from local youth, family, and social service organizations, schools, entities providing park and recreation services, and other community-based organizations serving high-risk youth;

b. An existing community-based advisory board, commission, or committee with similar membership is utilized to serve the committee described above; and

c. Enter into formal partnerships with youth serving organizations or other appropriate social service entities in order to link program participants with year-round services in their home communities that support and continue the objectives of this subtitle.

Review Criteria—Objectives and Need for Assistance (Maximum: 5 points)

The applicant should clearly define the specific needs that the project will address and state its underlying assumptions about how these specific needs can be addressed by the proposed project. As previously noted, any relevant data based on planning studies should be included or referred to in the endnotes/footnotes and demographic data and participant/beneficiary information should be incorporated, as needed. In developing the project description, the applicant may also volunteer or be requested to provide information on the total range of projects currently being conducted and supported (or to be initiated), some of which may be outside the scope of the program announcement.

Review Criteria—Organizational Profile (Maximum: 25 Points)

Organizational Experience in Program Area and Staff Responsibilities

a. Organizational experience in program area (0–10 points). Documentation provided indicates that projects previously undertaken have been relevant and effective and have provided significant benefits to low-income youth. Information provided should also address the achievements and competence of any participating institutions.

b. Management history (0–5 points). Applicants must fully detail their ability to implement sound and effective management practices. If they have been recipients of other Federal or other governmental grants, they must also detail that they have consistently complied with financial and program progress reporting and audit requirements. Applicants should submit any available documentation on their management practices and progress reporting procedures. Applicant should also submit a statement by a Certified or Licensed Public Accountant as to the sufficiency of the applicant's financial management system to protect any Federal funds which may be awarded under this program.

c. Staffing skills, resources and responsibilities (0–10 points). Applicant must briefly describe the experience and skills of the proposed project director showing that the individual is not only well qualified but that his/her professional capabilities are relevant to the successful implementation of the project. If the key staff person has not been identified, the application should contain a comprehensive position description which indicates that the responsibilities assigned to the project director are relevant to the successful implementation of the project.

The application must indicate that the applicant and the subgrantees or delegate institutions have adequate facilities and resources (i.e. space and equipment) to successfully carry out the proposed work plan. The application must clearly show that sufficient time of the Project Director and other senior staff will be budgeted to assure timely implementation and oversight of the project and that the assigned responsibilities of the staff are appropriate to the tasks identified for the project.

Review Criteria—Approach—Project Design and Implementation (Maximum: 40 Points)

Approach I: Location and Number of Institutions of Higher Education (Maximum: 20 points).

a. Applicant must describe and document the number and location of Institutions of Higher Education committed to participation in this program, with special attention to documenting the accessibility of the schools to economically disadvantaged communities. (0–12 points).

b. Applicant must describe in the aggregate the facilities which will be available on the campuses of the institutions to be used in the program (swimming pools, medical facilities, food preparation facilities, etc). (0–8 points).

Approach II: Adequacy of Work Program (Maximum: 20 Points).

a. Applicant must set forth realistic weekly time targets for the summer program. The time targets should specify the tasks to be accomplished in the given time frames. (0–8 points).

b. Applicant must address the legislatively-mandated activities found in Part I(A), to include: (1) Project priorities and rationale for selecting them; (2) project goals and objectives; and (3) project activities. (0–12 points)

Review Criteria—Adequacy of Budget (Maximum: 10 Points)

Budget is adequate and funds requested are commensurate with the level of effort necessary to accomplish the goals and objectives of the program. The estimated cost of the project to the government is reasonable in relation to the anticipated results.

Evaluation Criteria—Results or Benefits Expected (Maximum: 20 Points)

Element I: Significant and Beneficial Impact.

a. Applicant proposes to improve nutritional services to the participating youths (0–5 points).

b. Project incorporates medical examinations along with follow-up referral or treatment without charge (0–5 points).

c. Project includes counseling related to drug and alcohol abuse by couselors with experience in those areas as a major element (0–5 points).

d. Project makes use of an existing outreach activity of a community action agency or some other community-based organization (0–5 points).

Part IV—Application Procedures

A. Availability of Forms

Attachments B through J contain all of the standard forms under this OCS program. These attachments and PARTS V, and VI of this Notice contain all the instructions required for submittal of applications.

B. Application Submission

Mailing Address: NYSP applications should be mailed to the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Grants Management, Office of Child Support Enforcement, Attn: NYSP Program, 370 L'Enfant Promenade, SW., 4th Floor West, Washington, DC 20447.

Number of Copies Required. One signed original application and two copies must be submitted at the time of initial submission. (OMB 0970–0139). Two additional optional copies would be appreciated to facilitate the processing of applications.

Deadline: Mailed applications shall be considered as meeting an announced deadline if they are received on or before the deadline time and date at the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Grants Management, Office of Child Support Enforcement, Attn: NYSP Program, 370 L'Enfant Promenade, SW., 4th Floor West, Washington, DC 20447. Applicants are responsible for mailing applications well in advance, when using all mail services, to ensure that the applications are received on or before the deadline time and date.

Applications hand carried by applicants, applicant couriers, or by other representatives or the applicant shall be considered as meeting an announced deadline if they are received on or before the deadline date, between the hours of 8 a.m. and 4:30 p.m., EST at the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Grants Management, Office of Child Support Enforcement, ACF Mailroom, 2nd Floor (near loading dock), Aerospace Center, 901 ''D'' Street, SW., Washington, DC 20024, between Monday and Friday (excluding Federal holidays). (Applicants are cautioned that express/overnight mail services do not always deliver as agreed). The address must appear on the envelope/package containing the application with the note ''Attention: NYSP Program.''

ACF cannot accommodate transmission of applications by fax or through other electronic media. Therefore, applications transmitted to ACF electronically will not be accepted regardless of Date or Time of submission and time of receipt.

Late applications: Applications which do not meet the criteria above are considered late applications. ACF shall notify each late applicant that its application will not be considered in the current competition.

Extension of deadline: ACF may extend application deadlines when circumstances such as acts of God such as floods, hurricanes, etc. occur, when there are widespread disruptions of mail service, or in other rare cases. A determination to extend or waive deadline requirements rest with ACF's Chief Grants Management Officer.

Intergovernmental Review: This program is covered under Executive Order 12372, Intergovernmental Review of Federal Programs, and 45 CFR Part 100, Program and Activities. Under the order States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

All States and Territories except Alabama, Alaska, Arizona, Colorado, Connecticut, Kansas, Hawaii, Idaho, Indiana, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, New York, Ohio, Oklahoma, Oregon, Palau, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia, Washington and Wyoming have elected to participate in the Executive Order process and have established Single Points of Contacts (SPOCs). Applicants from these twenty-seven jurisdictions need take no action regarding E.O. 12372. Applicants for projects to be administered by Federally-recognized Indian Tribes are also exempt from the requirements of E.O. 12372. Otherwise, applicants should contact their SPOCs as soon as possible to alert them of the prospective applications and receive any necessary instructions. Applicants must submit any required material to the SPOCs as soon as possible so that the program office can obtain and review SPOC comments as part of the award process. It is imperative that the applicant submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the Standard Form 424, item 16a.

Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline to comment on proposed new or competing continuation awards.

When comments are submitted directly to ACF, they should be addressed to: Department of Health and Human Services, Administration for Children and Families, OCSE Office of Grants Management, 4th Floor West, 370 L'Enfant Promenade, SW., Washington, DC 20447.

A list of the Single Points of Contact for each State and Territory is included as Attachment K to this Announcement.

C. Application Consideration

Applications which meet the screening requirements in Section D below will be reviewed competitively. Such applications will be referred to reviewers for a numerical score and explanatory comments based solely on responsiveness to program guidelines and evaluation criteria published in this announcement. The applications will be reviewed by qualified reviewers. The results of these reviews will assist the Director and OCS program staff in considering competing applications. Reviewers' scores will weigh heavily in funding decisions but will not be the only factors considered. Applications will generally be considered in order of the average scores assigned by reviewers. However, highly ranked applications are not guaranteed funding since the Director may also consider other factors deemed relevant including, but not limited to, the timely and proper completion of projects funded with OCS funds granted in the last five (5) years; comments of reviewers and government officials; staff evaluation and input; previous program performance of applicants; compliance with grant terms under previous DHHS grants; audit reports; investigative reports; and applicant's progress in resolving any final audit disallowances on OCS or other Federal agency grants. OCS reserves the right to discuss applications with other Federal or non-Federal funding sources to ascertain the applicant's performance record.

D. Criteria for Reviewing Applications

All applications that meet the published deadline for submission will be screened to determine completeness and conformity to the requirements of this Announcement. Only those applications meeting the following requirements will be reviewed and evaluated competitively. Others will be returned to the applicants with a notation that they were unacceptable.

Initial Screening

(1) The application must contain a completed Standard Form 424 ''Application for Federal Assistance'' (SF–424), signed by an official of the organization applying for the grant who has authority to obligate the organization legally;

(2) One budget form (SF–424A) covering the entire NYSP project; and

(3) Signed ''Assurances'' (SF–424B) by the appropriate official.

Pre-Rating Review

Applications which pass the initial screening will be forwarded to reviewers for analytical comment and scoring based on the criteria detailed in the Section III.L above and the specific requirements contained in Part IV of this Announcement. Prior to the programmatic review, these reviewers and/or OCS staff will verify that the applications comply with this Program Announcement in the following areas:

(1) *Eligibility:* Applicant meets the eligibility requirements found in Part II.

(2) *Target Populations:* The application clearly targets the specific outcomes and benefits of the project to low-income participants as defined in the DHHS Poverty Income Guidelines (Attachment A).

(3) *Grant Amount:* The amount of funds requested does not exceed the estimated amount of $17 million.

Applications which pass the initial screening and pre-rating review will be assessed and scored by reviewers. Each reviewer will give a numerical score for each application reviewed. These numerical scores will be supported by explanatory statements on a formal rating from describing major strengths and major weaknesses under each applicable criterion published in this Announcement.

Part V. Instructions for Completing Application Forms

The standard forms attached to this announcement shall be used to apply for funds under this program announcement. It is suggested that you reproduce single-sided copies of the SF–424 and SF–424A and type your application on the copies. Please prepare your application in accordance with instructions provided on the forms(Attachment B and C) as modified by the OCS specific instructions set forth below:

Provide line item and detailed calculations for each budget object class identified on the Budget Information form. Detailed calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. The detailed budget must also include a breakout by the funding sources identified in Block 15 of SF–424.

Provide a narrative budget justification which describes how the categorical costs are derived. Discuss the necessity, reasonableness and allocability of the proposed costs.

A. SF–424—Application for Federal Assistance

(One SF–424 to be completed by applicant).

Top of Page

Where the applicant is a previous Department of Health and Human Services grantee, enter the Central Registry System Employee Identification Number (CRS/EIN) and the Payment Identifying Number, if one has been assigned, in the Block entitled *Federal Identifier* located at the top right hand corner of the form (third line from the top).

Item 1. For the purposes of this announcement, all projects are considered *Applications;* there are no Pre-applications.

Item 7. Enter ''N'' in the box for non-profit organization.

Item 9. *Name of Federal Agency*—Enter DHHS–ACF/OCS.

Item 10. *The Catalog of Federal Domestic Assistance* number for OCS programs covered under this announcement is 93.570.

Item 11. Enter a brief descriptive title of the project.

Item 13. *Proposed Project*—The project start must begin on or before June 1, 2002; the ending date should be calculated on the basis of a 60 month Project Period.

Item 15a. The amount should be no greater than $17 million.

Item 15e. These items should reflect both cash and third party, in-kind contributions for the Project Period.

B. SF–424A—Budget Information—Non-Construction Programs

(One SF–424A completed for applicant, covering the entire NYSP Project).

In completing these sections, the *Federal Funds* budget entries will relate to the requested *OCS funds only*, and *Non-Federal* will included mobilized funds from all other sources—applicant, state, local, other. *Federal funds other requested OCS funding should be included in Non-Federal entries.*

Section A—Budget Summary

You need only fill in lines 1 and 5 (with the same amounts)
Col. (a): Enter ''NYSP Program''
Col. (b): Catalog of Federal Domestic Assistance 93.570. Col. (c) and (d) not relevant to this program
Column (e)–(g): enter the appropriate grant request amount

Section B—Budget Categories

For applicants, a single SF–424A covering the entire NYSP project: complete a one-year budget in accordance with the instructions provided.

Note: With regard to Class Categories, only out-of-town travel should be entered under *Category c. Travel.* Local travel costs should be entered under *Category h. Other.* Costs of supplies should be included under *Category e. ''Supplies''* is tangible personal property other than ''equipment.'' ''Equipment'' means an article of nonexpendable, tangible personal property having a useful life of more than one year and acquisition cost which equals or exceeds the lesser of (a) the capitalization level establishing by the organization for financial statement purposes, or (b) $5,000. Articles costing less should be included in ''Supplies.''

Section C—Non-Federal Resources should be completed in accordance with the instructions provided, remembering that *''all non-OCS funds'' fall into this category.*

Section D, E and F may be left blank.

As previously noted in this Part, a supporting Budget Justification must be submitted providing details of expenditures under each budget category, with justification of dollar amounts which relate to the proposed expenditures to the work program and goals of the project.

C. SF–424B Assurances: Non-Construction Programs

(One SF–424B to be submitted by applicant).

Applicants requesting financial assistance for a non-construction project must file Standard Form 424B, ''Non-Construction Programs.'' (Attachment D). Applicants must sign and return the Standard Form 424B with their applications.

Applicants must provide a certification concerning Lobbying prior to receiving an award in excess of $100,000. Applicants shall furnish an executed copy of the lobbying certification (See Attachments G and H). Applicants must sign and return the certifications with their applications. Applicants should note that the Lobbying Disclosure Act of 1995 has simplified the lobbying information required to be disclosed under 31 U.S.C. 1352.

Applicants must make the appropriate certification on their compliance with the Drug-Free Workplace Act of 1998 and the Pro-Children Act of 1994 (Certification Regarding Smoke Free Environment). (See Attachments E and I). By signing and submitting the applications, applicants are attesting to their intent to comply with these requirements and need not mail back the certification with the applications.

Applicants must make the appropriate certification that they are not presently debarred, suspended or otherwise

ineligible for award. (See Attachment F). By signing and submitting the applications, applicants are providing the certification and need not mail back the certification with the applications. Copies of the certifications and assurances are located at the end of this announcement.

Part VI. Contents of Application and Receipt Process

Application pages should be numbered sequentially throughout the application package, beginning with a Summary/Abstract of the proposed project as page number one; and each application must include all of the following, in the order listed below:

A. Content and Order of Application

1. Table of Contents

2. *Project Summary*—provide a summary of the project description, (a page or less), that would be suitable for use in an announcement application has been selected for a grant award; which the type of project, identifies the target population and number of participants to be served, number of institutions of higher education committed to the project and the major elements of the work program.

3. A completed Standard Form 424 which has been signed by an official of the organization applying for the grant who has authority to obligate the organization legally; [Note: The original SF–424 must bear the original signature of the authorizing representative of the applicant];

4. A single *Budget Information-Non-Construction Programs (SF–424A)* for the applicant, covering the entire NYSP Project.

5. *Narrative Budget Justification* for each object class category included under Section B.

6. *Project Narrative* is limited to the number of pages specified below.

7. *Appendices,* which should include the following:

a. Filled out, signed and dated *Assurances—Non-Construction* (SF 424–B), Attachment C;

b. *Instructions for Completion of SP–LLL, Disclosure of Lobbying Activities:* fill out, sign and date form found at Attachment G;

c. *Disclosure of Lobbying Activities SF–LLL:* fill out, sign and date form found at Attachment H, if appropriate (omit Items 11–15 on the SF–LLL and ignore references to Attachment G, page, SF–LLL–A);

d. *Maintenance of Effort Certification* (See Attachment J);

e. Resumes and/or position descriptions (should be included in the appendices);

f. Single Points of Contact comments, if available.

g. and other information such: organization by-laws, articles of incorporation, proof of non-profit status, statement by a Certified or Licensed Public Accountant as to the sufficiency of the applicant's financial management system to protect Federal funds.

Note: The total number of pages for the entire application package should not exceed 50 pages, including appendices. Applications should be two holed punched at the top and fastened separately with a compressor slide paper fastener or a binder clip. The submission of bound applications, or applications enclosed in binder, is especially discouraged. Pages should be numbered sequentially throughout the application package, excluding Appendices, beginning with the Summary/Abstract as Page #1.

Applications must be uniform in composition since OCS may find it necessary to duplicate them for review purposes. Therefore, applications must be submitted on white 8½ × 11 inch paper only. They should not include colored, oversized or folded materials. Do not include organizational brochures or other promotional materials, slides, films, clips, etc. in the proposal. They may be discarded, if included.

B. Acknowledgment of Receipt

Acknowledgment of Receipt—All applicants will receive an acknowledgment with an assigned identification number. Applicants are requested to supply a self-addressed mailing label with their application which can be attached to this acknowledgment. All applicants are requested to provide a FAX number and/or e-mail address as part of their application. The assigned identification number, along with any other identifying codes, must be referenced in all subsequent communications concerning the application. If an acknowledgment and/or notice is not received within three weeks after the deadline date, please notify ACF by telephone at (202) 401–5307 or 5295.

Part VII. Post Award Information and Reporting Requirements

A. Notification of Grant Award

Following approval of the application selected for funding, notice of project approval and authority to draw down project funds will be made in writing. The official award document is the Financial Assistance Award which provides the amount of Federal funds for use in the project period, the budget period for which support is provided, and the terms and conditions of the award, the total project period for which support is contemplated, and the total required grantee financial participation, if any.

For Fiscal Years 2003–2006 the grantee will be notified of the requirements for submission of the continuation application by February of the pertinent fiscal year.

B. Reporting Requirements

Grantee will be required to submit semi-annual progress and financial reports (SF–269) throughout the project period, as well as a final program and financial report 90 after the end of the project period.

C. Audit Requirements

Grantee is subject to the audit requirements in 45 CFR Part 74 and OMB Circular A–133.

In addition to the General Conditions and Special Conditions (where the latter are warranted) which will be applicable to grant, the grantee will be subject to the provisions of 45 CFR Part 74 along with OMB Circulars A–122, A–133, and, for institutions of higher education, A–21.

D. Prohibitions and Requirements with regard to Lobbying

Section 1352 of Public Law 101–121, signed into law on October 23, 1989, imposes prohibitions and requirements for disclosure and certification related to lobbying on recipients of Federal contracts, grants, cooperative agreements, and loans. It provides exemptions for Indian Tribes and tribal organizations. Current and prospective recipients (and their subtier contractors and/or grantees) are prohibited from using Federal funds, other than profits from a Federal contract, for lobbying Congress or any Federal agency in connection with the award of a contract, grant, cooperative agreement or loan. In addition, for each award action in excess of $100,000 (or $150,000 for loans) the law requires recipients and their subtier contractors and/or subgrantees (1) to certify that they have neither used nor will use any appropriated funds for payment to lobbyists; (2) to disclose the name, address, payment details, and purpose of any agreements with lobbyists whom recipients or their subtier contractor, or subgrantees will pay with profits or nonappropriated funds on or after December 22, 1989; and (3) to file quarterly up-dates about the use of lobbyists if material changes occur in their use. The law establishes civil penalties for noncompliance. See Attachments G and H for certification and disclosure forms to be submitted with the applications for this program.

Dated: January 17, 2002.

Clarence H. Carter,

Director, Office of Community Services.

List of Attachments

A. Income Poverty Guidelines

B. Application for Federal Assistance (SF–424)

C. Budget Information—Non-Construction Programs (SF–424A)

D. Assurances—Non-Construction Programs (SF–424B)

E. Certification Regarding Drug-Free Workplace Requirements

F. Certification Regarding Debarment, Suspension, and other Responsibility Matters

G. Instructions for Completion of SF–LLL, Disclosure of Lobbying Activities

H. Disclosure of Lobbying Activities

I. Certification Regarding Environmental Tobacco Smoke

J. Certification Regarding Maintenance of Effort

K. Single Points of Contact Listing

BILLING CODE 4184–01–P

ATTACHMENT A

2001 POVERTY GUIDELINES FOR THE 48 CONTIGUOUS STATES AND THE DISTRICT OF COLUMBIA

Size of Family Unit	Poverty Guideline
1	$ 8,590
2	$11,610
3	$14,630
4	$17,650
5	$20,670
6	$23,690
7	$26,710
8	$29,730

For family units with more than 8 members, add $3,020 for each additional member. (The same increment applies to smaller family sizes also, as can be seen in the figures above).

2001 POVERTY GUIDELINES FOR ALASKA

Size of Family Unit	Poverty Guideline
1	$10,730
2	$14,510
3	$18,290
4	$22,070
5	$25,850
6	$29,630
7	$33,410
8	$37,190

For family units with more than 8 members, add $3,780 for each additional member. (The same increment applies to smaller family sizes also, as can be seen in the figures above).

2001 POVERTY GUIDELINES FOR HAWAII

Size of Family Unit	Poverty Guidelines
1	$ 9,890
2	$13,360
3	$16,830
4	$20,300
5	$23,770
6	$27,240
7	$30,710
8	$34,180

For family units with more than 8 members, add $3,470 for each additional member. (The same increment applies to smaller family sizes also, as can be seen in the figures above).

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

	2. DATE SUBMITTED	Applicant Identifier
1. TYPE OF SUBMISSION: Application ☐ Construction ☐ Non-Construction; Preapplication ☐ Construction ☐ Non-Construction	3. DATE RECEIVED BY STATE	State Application Identifier
	4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address *(give city, county, state, and zip code)*:	Name and telephone number of the person to be contacted on matters involving this application *(give area code)*

6. EMPLOYER IDENTIFICATION NUMBER *(EIN)*: ☐☐ – ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: *(enter appropriate letter in box)* ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other *(Specify)*: _____

8. TYPE OF APPLICATION: ☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other *(specify)*:

_____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: ☐☐ – ☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT *(cities, counties, states, etc.)*:

13. PROPOSED PROJECT:		14. CONGRESSIONAL DISTRICTS OF:	
Start Date	Ending Date	a. Applicant	b. Project

15. ESTIMATED FUNDING:		
a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	0.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:

DATE _____

b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED STATE FOR REVIEW

17. IS APPLICATION DELINQUENT ON ANY FEDERAL DEBT?

☐ YES If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		**e. Date Signed**

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Standard Form 424 (Rev. 7-97)
Prescribed by OMB Circular A-102

BILLING CODE 4184–01–C

Attachment B—Instructions for the SF–424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item and Entry:

1. Self-explanatory.

2. Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).

3. State use only (if applicable).

4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.

5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.

6. Enter Employer Identification Number (EIN) as assigned by Internal Revenue Service.

7. Enter the appropriate letter in the space provided.

8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:

—''New'' means a new assistance award.

—''Continuation'' means an extension for an additional funding/budget period for a project with a projected completion date.

—''Revision'' means any change in the Federal Governments financial obligation or contingent liability from an existing obligation.

9. Name of Federal agency from which assistance is being requested with this application.

10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.

11. Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

12. List only the largest political entities affected (e.g., State, counties, cities).

13. Self-explanatory.

14. List the applicant's Congressional District and District(s) affected by the program or project.

15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.

16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.

17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.

18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

BILLING CODE 4184–01–P

BUDGET INFORMATION - Non-Construction Programs

OMB Approval No. 0348-0044

SECTION A - BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. Totals		$	$	$	$	$

SECTION B - BUDGET CATEGORIES

6. Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total
	(1)	(2)	(3)	(4)	(5)
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges *(sum of 6a-6h)*					
j. Indirect Charges					
k. TOTALS *(sum of 6i and 6j)*	$	$	$	$	$
7. Program Income	$	$	$	$	$

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Standard Form 424A (Rev. 7-97)
Prescribed by OMB Circular A-102

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SECTION C - NON-FEDERAL RESOURCES				
(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTAL *(sum of lines 8-11)*	$	$	$	$

SECTION D - FORECASTED CASH NEEDS					
	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. Non-Federal					
15. TOTAL *(sum of lines 13 and 14)*	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT				
(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTAL *(sum of lines 16-19)*	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION	
21. Direct Charges:	22. Indirect Charges:
23. Remarks:	

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Standard Form 424A (Rev. 7-97) Page 2

BILLING CODE 4184-01-C

Attachment C—Instructions for the SF–424A

Public reporting burden for this collection of information is estimated to average 180 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348–0044), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A, B, C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A, B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a–k of Section B.

Section A. Budget Summary Lines 1–4, Columns (a) and (b)

For applications pertaining to a single Federal grant program (Federal Domestic Assistance Catalog number) and not requiring a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a single program requiring budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the catalog program title on each line in Column (a) and the respective catalog number on each line in Column (b).

For applications pertaining to multiple programs where one or more programs require a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1–4, Columns (c) through (g.)

For new applications, leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in column (e) the amount of the increase or decrease of Federal Funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5—Show the totals for all columns used.

Section B. Budget Categories

In the column heading (1) through (4), enter the titles of the same programs, functions, and activities shown on Line 1–4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6a–i—Show the totals of Lines 6a to 6h in each column.

Line 6j—Show the amount of indirect cost.

Line 6k—Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)–(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

Line 7—Enter the estimated amount of income, in any, expected to be generated from this project. Do not add or subtract this amount from the total project amount.

Shown under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the Federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal Resources

Line 8–11—Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a)—Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b)—Enter the contribution to be made by the applicant.

Column (c)—Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d)—Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e)—Enter totals of Columns (b), (c), and (d).

Line 12—Enter the total for each of Columns (b)–(e). The amount in Column (e) should be equal to the amount on line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13—Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14—Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15—Enter the totals of amounts on Line 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Line 16–19—Enter in Column (a) the same grant program titles shown in column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20—Enter the total for each of the Columns (b)–(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21—Use this space to explain amounts for individual direct object-class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22—Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23—Provide any other explanations or comments deemed necessary.

Attacment D—Assurances—Non-Construction Programs

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to

certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to apply the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standard or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728–4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standard for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statues relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88–352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681–1683, and 1685–1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §§ 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101–6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92–255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91–616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§ 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), as amended, relating to non-discrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statue(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statue(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of the Title II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91–646) which provide for fair and equitable treatment of person displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501–1508 and 7324–7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a–7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. § 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327–333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of section 102(a) of the Flood Disaster protection Act of 1973 (P.L. 93–234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91–190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetland pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§ 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93–523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93–205).

12. Will comply with the Wild and Scenic River Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. § 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§ 469a–1 et seq.).

14. Will comply with P.L. 93–348 regarding the protection of human subjects involved in research development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89–544, as amended, 7 U.S.C. §§ 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL

TITLE

APPLICANT ORGANIZATION

DATE SUBMITTED

Attachment E—Certification Regarding Drug-Free Workplace Requirements

This certification is required by the regulations implementing the Drug-Free Workplace Act of 1988: 45 CFR Part 76, Subpart, F. Sections 76.630(c) and (d)(2) and 76.645(a)(1) and (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification of criminal drug convictions. For the Department of Health and Human Services, the central point is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, Room 517–D, 200 Independence Avenue, SW., Washington, DC 20201.

Certification Regarding Drug-Free Workplace Requirements (Instructions for Certification)

1. By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

2. The certification set out below is a material representation of fact upon which reliance is placed when the agency awards the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, the agency, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.

3. For grantees other than individuals, Alternate I applies.

4. For grantees who are individuals, Alternate II applies.

5. Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep

the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.

6. Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios).

7. If the workplace identified to the agency changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see paragraph five).

8. Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the followingdefinitions from these rules:

Controlled substance means a controlled substance in Schedules I through V of the Controlled Substances Act (21 U.S.C. 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15);

Conviction means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

Criminal drug statute means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

Employee means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All direct charge employees; (ii) All indirect charge employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) Temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of recipients or subcontractors in covered workplaces).

Certification Regarding Drug-Free Workplace Requirements

Alternate I. (Grantees Other Than Individuals)

The grantee certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about—

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(23) Any available drug counseling, rehabilitation, and employee assistance programs;

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will—(1) Abide the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under paragraph (d)(2) from an employee or other receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant.

(f) Taking on of the following actions, within 30 calendar days of receiving notice under paragraph (d)(2), with respect to any employee who is so convicted—

(1) Taking appropriate personnel action against such employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

(B) The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code).

Check if there are workplaces on file that are not identified here.

Alternate II. (Grantees Who Are Individuals)

(a) The grantee certifies that, as a condition of the grant, he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant;

(b) If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, he or she will report the conviction, in writing, within 10 calendar days of conviction, to every grant officer or other designee, unless the Federal agency designates a central point for the receipt of such notices. When notice is made to such a central point, it shall include the identification number(s) of each affected grant.

Attachment F—Certification Regarding Debarment, Suspension and Other Responsibility Matters

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

Instructions for Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

4. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.

6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled

''Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction,'' provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

(1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal has one or more public transactions (Federal, State, or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.

4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Covered sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, [[Page 33043]] should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled ''Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions,'' without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause.

The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Attachment G-Instructions for Completion of SF-LLL, Disclosure of Lobbying Activities

This decision form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. Section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks ''subawardee'', then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 [e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency]. Include prefixes, e.g., ''RFP–DE–90–001''.

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.

(b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).

11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0343–0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management Budget, Paperwork Reduction Project (0348–0046), Washington, DC 20503.

Disclosure of Lobbying Activities Continuation Sheet

Reporting Entity: _____

_____ _____

Page _____ of _____

BILLING CODE 4184–01–C

Attachment H

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:	2. Status of Federal Action	3. Report Type:
☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	☐ a. bid/offer/application b. initial award c. post-award	☐ a. initial filing b. material change **For Material Change Only:** Year _____ Quarter _____ date of last report _____

4. Name and Address of Reporting Entity:	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:
☐ Prime ☐ Subawardee Tier _____, *if known:* **Congressional District,** *if known:*	**Congressional District,** *if known:*
6. Federal Department/Agency:	**7. Federal Program Name/Description:** **CFDA Number,** *if applicable:* _____
8. Federal Action Number, *if known:*	**9. Award Amount,** *if known:* **$**
10. a. Name and Address of Lobbying Entity *(if individual, last name, first name, MI):*	**b. Individuals Performing Services** *(including address if different from No. 10a.)* *(last name, first name, MI):*
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.	**Signature:** _____ **Print Name:** _____ **Title:** _____ **Telephone No.:** _____ **Date:** _____
Federal Use Only	Authorized for Local Reproduction Standard Form - LLL (Rev. 7-97)

BILLING CODE 4184–01–C

Attachment I—Certification Regarding Environmental Tobacco Smoke

Public Law 103–227, Part C Environmental Tobacco Smoke, also known as the Pro Children Act of 1994, requires that smoking not be permitted in any portion of any indoor routinely owned or leased or contracted for by an entity and used routinely or regularly for provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to $1000 per day and/or the imposition of an administrative compliance order on the responsible entity. By signing and submitting this application the applicant/grantee certifies that it will comply with the requirements of the Act.

The applicant/grantee further agrees that it will require the language of this certification be included in any subawards which contain provisions for the children's services and that all subgrantees shall certify accordingly.

Attachment J—Certification Regarding Maintenance of Effort

In accordance with the applicable program statute(s) and regulation(s), the undersigned certifies that financial assistance provided by the Administration for Children and Families, for the specified activities to be performed under the _____ Program by _____ (Applicant Organization), will be in addition to, and not in substitution for, comparable activities previously carried on without Federal assistance.

_____

Signature of Authorized Certifying Official

_____

Title

_____

Date

Attachment K—Intergovernment Review (SPOC List)

It is estimated that in 2001 the Federal Government will outlay $305.6 billion in grants to State and local governments. Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' was issued with the desire to foster the intergovernmental partnership and strengthen federalism by relying on State and local processes for the coordination and review of proposed Federal financial assistance and direct Federal development. The Order allows each State to designate an entity to perform this function. Below is the official list of those entities. For those States that have a home page for their designated entity, a direct link has been provided below.

States that are not listed on this page have chosen not to participate in the intergovernmental review process, and therefore do not have a SPOC. If you are located within one of these States, you may still send application materials directly to a Federal awarding agency.

Contact information for Federal agencies that award grants can be found in *Appendix IV of the Catalog of Federal Domestic Assistance.*

ARKANSAS

Tracy L. Copeland
Manager, State Clearinghouse
Office of Intergovernmental Services
Department of Finance and Administration
1515 W. 7th St., Room 412
Little Rock, Arkansas 72203
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Changes to this list can be made only after OMB is notified by a State's officially designated representative. E-mail messages can be sent to *grants@omb.eop.gov*. If you prefer, you may send correspondence to the following postal address:

Attn: Grants Management
Office of Management and Budget
New Executive Office Building, Suite 6025
725 17th Street, NW
Washington, DC 20503

Please note: Inquiries about obtaining a Federal grant should not be sent to the OMB e-mail or postal address shown above. The best source for this information is the *CFDA*.

[FR Doc. 02–2130 Filed 1–29–02; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Statement of Organization, Functions, and Delegations of Authority

This notice amends Part K of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (DHHS), Administration for Children and Families (ACF) as follows: Chapter KB, Administration on Children, Youth and Families (ACYF) as last amended June 5, 2001 (66 FR 30215) and Chapter KM, Office of Planning, Research and Evaluation (OPRE) as last amended January 2, 1998 (63 FR 81–87). This notice realigns the research functions from the Office of the Commissioner, ACYF with the research functions in the Division of Child and Family Development, OPRE.

These Chapters are amended as follows:

I. Chapter KB, Administration on Children, Youth and Families

A. Delete KB.20 Functions, Paragraph A, in its entirety and replace with the following:

KB.20 Functions A. The Office of the Commissioner serves as principal advisor to the Assistant Secretary for Children and Families, the Secretary, and other officials of the Department on the sound development of children, youth, and families. It provides executive direction and management strategy to ACYF components. The Deputy Commissioner assists the Commissioner in carrying out the responsibilities of the Office. In addition to the Immediate Office, the Office of the Commissioner contains two organizational units. In support of the Commissioner and Deputy Commissioner and in consultation with ACYF programs the:

1. Office of Management Services manages the formulation and execution of the budgets for ACYF programs and for federal administration; serves as the central control point for operational and long range planning; functions as Executive Secretariat for ACYF, including managing correspondence, correspondence systems, and electronic mail requests; reviews and manages clearance for program announcements for ACYF, the Administration for Native Americans (ANA), and the Administration on Development Disabilities (ADD); plans for/coordinates the provision of staff development and training; provides support for ACYF's personnel administration, including staffing, employee and labor relations, performance management and employee recognition; manages procurement planning and provides technical assistance regarding procurement; plans for/oversees the discretionary grant paneling process; manages ACYF-controlled space and facilities; performs manpower planning and administration; plans for, acquires, distributes and controls ACYF supplies; provides mail and messenger services; maintains duplicating, fax, and computer and computer peripheral equipment; supports and manages automation within ACYF; provides for health and safety; and oversees travel, time and attendance, and other administrative functions for ACYF.

The Office of Management Services also reviews and approves formula and entitlement programs for ACYF's bureaus and ADD. It assures that all formula and entitlement awards conform with applicable statutes, regulations, and policies; computes grantee allocations; prepares formula and entitlement awards; ensures incorporation of necessary grant terms and conditions; monitors grantee expenditures; analyzes financial needs under formula and entitlement programs; provides data in support of apportionment requests; prepares reports and analyses on the grantees' use of funds; maintains liaison and coordination with appropriate ACF and HHS organizations to ensure consistence between ACF formula and entitlement grant systems and the Department's grant payment systems; and performs audit resolution activities for formula and entitlement programs.

2. Office of Grants Management provides management and technical administration for discretionary grants for ACYF, ADD, and ANA; reviews, certifies and/or signs all discretionary grants; assures that all discretionary grants awarded by ACYF, ADD, and ANA conform with applicable statutes, regulations, and policies; computes grantee allocations, prepares discretionary grant awards, ensures incorporation of the necessary grant terms and conditions, and monitors grantee expenditures; analyzes financial needs under discretionary grant programs; provides data in support of apportionment requests; and prepares reports and analyses on the grantee's use of funds; maintains liaison and coordination with appropriate ACF and HHS organizations to ensure consistency between ACYF, ADD, and ANA discretionary grant systems and the Department's grant payment systems; provides technical assistance to regional components on discretionary grant operations and technical grants management issues; and performs audit resolution activities for ACYF, ADD, and ANA discretionary grant programs. The Office of Grants Management coordinates and maintains liaison with the Department and other federal agencies on discretionary grants management and administration operational issues and activities.

II. Chapter KM, Office of Planning, Research, and Evaluation

A. Delete KM.20 Function, Paragraph C, in its entirety and replace with the following:

C. The Division of Child and Family Development, in cooperation with ACF programs and others, works with federal counterparts, States, community agencies, and the private sector to: improve the effectiveness and efficiency of programs; assure the protection of children and other vulnerable populations; strengthen and promote family stability; and foster sound growth and development of children and families. The Division provides guidance, analysis, technical assistance and oversight in ACF on: strategic planning and performance measurement for all ACF programs, including child and family development; statistical, policy and program analysis; surveys, research and evaluation methodologies; demonstration testing and model development; synthesis and dissemination of research and demonstration findings; and application of emerging technologies to improve the effectiveness of programs and service delivery.

The Division conducts, manages, and coordinates major cross-program, leading-edge research demonstrations and evaluation studies; and manages and conducts statistical, policy, and program analyses related to children and families. Division staff also provide consultation, coordination, direction and support for research activities related to children and families across ACF programs. The Division develops policy-relevant research priorities; manages the section 1110 social service research budget; and, in partnership with the Head Start Bureau, manages the Head Start Research budget.

Dated: January 22, 2002.

Wade F. Horn,

Assistant Secretary for Children and Families.

[FR Doc. 02–2223 Filed 1–29–02; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

State Median Income Estimates for Four-Person Families (FFY 2003); Notice of the Federal Fiscal Year (FFY) 2003 State Median Income Estimates for Use Under the Low Income Home Energy Assistance Program (LIHEAP) Administered by the Administration for Children and Families, Office of Community Services, Division of Energy Assistance

AGENCY: Office of Community Services, ACF, DHHS.

ACTION: Notice of estimated State median income for FFY 2003.

SUMMARY: This notice announces the estimated median income for four-person families in each State and the District of Columbia for FFY 2003 (October 1, 2002 to September 30, 2003). LIHEAP grantees may adopt the State median income estimates beginning with the date of this publication of the estimates in the **Federal Register** or at a later date as discussed below. This means that LIHEAP grantees could choose to implement this notice during the period between the heating and cooling seasons. However, by October 1, 2002, or by the beginning of a grantee's fiscal year, whichever is later, LIHEAP grantees using State median income estimates must adjust their income eligibility criteria to be in accord with the FFY 2003 State median income estimates.

This listing of estimated State median incomes concerns maximum income levels for households to which LIHEAP grantees may make payments under LIHEAP.

EFFECTIVE DATE: The estimates are effective at any time between the date of this publication and October 1, 2002, or by the beginning of a LIHEAP grantee's fiscal year, whichever is later.

FOR FURTHER INFORMATION CONTACT: Leon Litow,Administration for Children

and Families, HHS,Office of Community Services,Division of Energy Assistance, 5th Floor West, 370 L'Enfant Promenade, SW.,Washington, DC 20447,Telephone: (202) 401–5304,E-Mail: *llitow@acf.dhhs.gov.*

SUPPLEMENTARY INFORMATION: Under the provisions of section 2603(7) of Title XXVI of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35, as amended), we are announcing the estimated median income of a four-person family for each state, the District of Columbia, and the United States for FFY 2003 (the period of October 1, 2002, through September 30, 2003).

Section 2605(b)(2)(B)(ii) of the LIHEAP statute provides that 60 percent of the median income for each state, as annually established by the Secretary of the Department of Health and Human Services, is one of the income criteria that LIHEAP grantees may use in determining a household's eligibility for LIHEAP.

LIHEAP is currently authorized through the end of FFY 2004 by the Coats Human Services Reauthorization Act of 1998, Pub. L. 105–285, which was enacted on October 27, 1998.

Estimates of the median income of four-person families for each State and the District of Columbia for FFY 2003 have been developed by the Bureau of the Census of the U.S. Department of Commerce, using the most recently available income data. In developing the median income estimates for FFY 2003, the Bureau of the Census used the following three sources of data: (1) The March 2001 Current Population Survey; (2) the 1990 Decennial Census of Population; and (3) 2000 per capita personal income estimates, by state, from the Bureau of Economic Analysis (BEA) of the U.S. Department of Commerce.

Like the estimates for FFY 2002, the FFY 2003 estimates include income estimates from the March Current Population Survey that are based on population controls from the 1990 Decennial Census of Population. Income estimates prior to FFY 1996 from the March Current Population Survey had been based on population controls from the 1980 Decennial Census of Population. Generally, the use of 1990 population controls results in somewhat lower estimates of income.

In 1999, BEA revised its methodology in estimating per capita personal income estimates. BEA's revised methodology is reflected in the FFY 2003 state 4-person family median income estimates. Generally, the revised methodology decreased, on average, state median income estimates for FFY 2002 by about 0.04 percent. For further information on the estimating method and data sources, contact the Housing and Household Economic Statistics Division, at the Bureau of the Census (301–457–3243).

A state-by-state listing of median income, and 60 percent of median income, for a four-person family for FFY 2003 follows. The listing describes the method for adjusting median income for families of different sizes as specified in regulations applicable to LIHEAP, at 45 CFR 96.85(b), which was published in the **Federal Register** on March 3, 1988 at 53 FR 6824.

Dated: January 24, 2002.

Clarence H. Carter,

Director, Office of Community Services.

ESTIMATED STATE MEDIAN INCOME FOR 4-PERSON FAMILIES, BY STATE, FEDERAL FISCAL YEAR 2003 [1]

States	Estimated state median income 4-person families [2]	60 percent of estimated state median income 4-person families
Alabama	$51,451	$30,871
Alaska	66,874	40,124
Arizona	55,663	33,398
Arkansas	44,537	26,722
California	63,206	37,924
Colorado	66,624	39,974
Connecticut	82,702	49,621
Delaware	69,360	41,616
District of Col	63,406	38,044
Florida	55,351	33,211
Georgia	59,489	35,693
Hawaii	65,872	39,523
Idaho	53,722	32,233
Illinois	68,117	40,870
Indiana	62,079	37,247
Iowa	57,921	34,753
Kansas	56,784	34,070
Kentucky	51,249	30,749
Louisiana	47,363	28,418
Maine	56,186	33,712
Maryland	77,562	46,537
Massachusetts	78,025	46,815
Michigan	68,740	41,244
Minnesota	70,553	42,332
Mississippi	46,331	27,799
Missouri	61,173	36,704
Montana	46,142	27,685
Nebraska	57,040	34,224
Nevada	59,614	35,768
New Hampshire	71,661	42,997
New Jersey	78,560	47,136
New Mexico	47,314	28,388
New York	64,520	38,712
North Carolina	57,203	34,322
North Dakota	53,140	31,884

ESTIMATED STATE MEDIAN INCOME FOR 4-PERSON FAMILIES, BY STATE, FEDERAL FISCAL YEAR 2003[1]—Continued

States	Estimated state median income 4-person families[2]	60 percent of estimated state median income 4-person families
Ohio	62,251	37,351
Oklahoma	48,459	29,075
Oregon	58,315	34,989
Pennsylvania	65,411	39,247
Rhode Island	68,418	41,051
South Carolina	56,294	33,776
South Dakota	55,150	33,090
Tennessee	54,899	32,939
Texas	53,513	32,108
Utah	57,043	34,226
Vermont	59,125	35,475
Virginia	68,054	40,832
Washington	63,568	38,141
West Virginia	46,270	27,762
Wisconsin	66,725	40,035
Wyoming	55,859	33,515

Note: FFY 2003 covers the period of October 1, 2002 through September 30, 2003. The estimated median income for 4-person families living in the United States is $62,228 for FFY 2003. The estimates are effective for the Low Income Home Energy Assistance Program (LIHEAP) at any time between the date of this publication and October 1, 2002, or by the beginning of a LIHEAP grantee's fiscal year, whichever is later.

[1] In accordance with 45 CFR 96.85, each State's estimated median income for a 4-person family is multiplied by the following percentages to adjust for family size: 52% for one person, 68% for two persons, 84% for three persons, 100% for four persons, 116% for five persons, and 132% for six persons. For family sizes greater than six persons, add 3% for each additional family member and multiply the new percentage by the State's estimated median income for a 4-person family.

[2] Prepared by the Bureau of the Census from the March 2001 Current Population Survey, 1990 Decennial Census of Population and Housing, and 2000 per capita personal income estimates, by state, from the Bureau of Economic Analysis (BEA). In 1999, BEA revised its methodology in estimating per capita personal income estimates. BEA's revised methodology is reflected in the FFY 2003 state 4-person family median income estimates. For further information, contact the Housing and Household Economic Statistics Division at the Bureau of the Census (301–457–3243).

[FR Doc. 02–2224 Filed 1–29–02; 8:45 am]
BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98D–0016]

Withdrawal of Guidance Document on Professional Flexible Labeling of Antimicrobial Drugs

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing a guidance for industry (#66) entitled ''Professional Flexible Labeling of Antimicrobial Drugs.'' This guidance, which was issued in August 1998, is being withdrawn because it does not represent current agency thinking on the development of professional flexible labeling for therapeutic veterinary prescription antimicrobial drugs. The agency intends to develop a new document on this topic.

DATES: Submit written or electronic comments at any time.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments. Comments should be identified with the full title of the guidance and the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Andrew J. Beaulieu, Center for Veterinary Medicine (HFV–1), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20851, 301–827–2954.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is withdrawing a guidance for industry (#66) entitled ''Professional Flexible Labeling of Antimicrobial Drugs.'' This guidance addresses the development of professional flexible labeling for prescription therapeutic antimicrobial new animal drugs. This guidance is being withdrawn because the agency now believes that the ''broad indication'' that was described in the guidance, particularly the very broad indication used as an example, is not consistent with the kind of database that typically can be generated to support an antimicrobial new animal drug approval. In the **Federal Register** of July 28, 1999 (64 FR 40746), the agency revised its definition of ''substantial evidence'' in the animal drug regulations (21 CFR 514.4). In light of that definition and experience regarding the manner in which products are being advertised or otherwise promoted for use under the ''broad indication'' provision of the guidance, FDA is withdrawing this guidance. The guidance no longer reflects the agency's current thinking on how sponsors can provide substantial evidence of effectiveness for all of the conditions that could fall within a ''broad'' (or ''collective'') indication on the label of a prescription therapeutic antimicrobial new animal drug.

The agency intends to develop a new guidance on this issue and will publish it as a level 1 draft guidance in accordance with the agency's good guidance practices in 21 CFR 10.115. The focus of the revisions will be the ''Indications'' and ''Microbiology'' sections of the guidance. The guidance revisions will more clearly set out the basis for the ''Indication'' section as ''substantial evidence of effectiveness''. In the interim, sponsors of antimicrobial products should consult with the Center for Veterinary Medicine (CVM) at FDA for more detailed information regarding acceptable content for the ''Indications'' and ''Microbiology'' sections of the labeling. In general, CVM encourages sponsors to discuss all aspects of product development through

presubmission conferences and other meetings with CVM.

II. Significance of Guidance

This information is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). It does not create or confer any rights for or on any person and does not operate to bind FDA or the public.

III. Comments

The agency welcomes comments on its efforts to review existing guidances related to the development of new animal drug products and revise, reformat, or withdraw them, as appropriate.

Interested persons may submit written or electronic comments on agency guidance documents to the Dockets Management Branch (address above) at any time. Two copies of any written comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. A copy of received comments is available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 23, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–2212 Filed 1–29–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Committee; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act, (Public Law 92–463), announcement is made of the following National Advisory Committee scheduled to meet during the month of February 2002.

Name: Advisory Committee on Interdisciplinary, Community-Based Linkages.

Date and Time: February 4, 2002; 8 a.m.–5 p.m.; February 5, 2002; 8 a.m.–5 p.m.; February 6, 2002; 8 a.m.–1 p.m.

Place: The Doubletree Hotel, Rockville, Maryland, 1750 Rockville Pike, Rockville, Maryland 20852.

The meeting is open to the public.

Agenda items will include, but not be limited to: Welcome; introduction of the Division of State, Community and Public Health Staff; members' reactions to the inaugural report submitted to the Secretary of Health and Human Services, November 2001; Federal staff reactions to report; and plenary discussion of Committee goals for 2002–2003; ongoing guidance provided on an ad hoc basis by Federal program staff from the Division of State, Community and Public Health; general discussion among Committee members of its charge under Section 756 of the Public Health Service Act, to include discussion of Committee reports; scheduling of the next Committee meeting, which shall include but not be limited to: General discussion of topics to be addressed during the next Committee meeting.

Public comment will be permitted before lunch and at the end of the Committee meeting on February 4, 2002. Oral presentations will be limited to 5 minutes per public speaker. Persons interested in providing an oral presentation should submit a written request, with a copy of their presentation to: Mrs. Tempie Desai, Principal Staff Liaison, Division of State, Community and Public Health, Bureau of Health Professions, Health Resources and Services Administration, Room 9–105, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–0132.

Requests should contain the name, address, telephone number, and any business or professional affiliation of the person desiring to make an oral presentation. Groups having similar interests are requested to combine their comments and present them through a single representative. The Division of State, Community and Public Health will notify each presenter by mail or telephone of their assigned presentation time.

Persons who do not file an advance request for a presentation, but wish to make an oral statement may register to do so at the Doubletree Hotel, Rockville, Maryland, on February 4, 2002. These persons will be allocated time as the Committee meeting agenda permits.

Anyone requiring information regarding the Committee should contact Mrs. Tempie Desai, Division of State, Community and Public Health, Bureau of Health Professions, Health Resources and Services Administration, Room 9–105, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–0132.

Proposed agenda items are subject to change as priorities dictate.

Dated: January 25, 2002.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 02–2269 Filed 1–25–02; 4:37 pm]

BILLING CODE 4165–15–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4734–N–02]

Notice of Submission of Proposed Information Collection to OMB; HOME Investment Partnerships Program

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* March 1, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number (2506–0171) should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Q, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail *Wayne_Eddins@HUD.gov;* telephone(202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice also lists the following information:

Title of Proposal: HOME Investment Partnerships Program.

OMB Approval Number: 2506–0171.

Form Numbers: HUD–40093, HUD–40093A, HUD–40107 and HUD–40107A.

Description of the Need for the Informaiton and its Proposed Use: The

information sought concerns the income of program beneficiaries, the eligibility of activities, program agreements, and performance reports. The data identifies who benefits from the program and how requirements are satisfied.

Respondents: Not-for-profit institutions, State, Local or Tribal Government.

Frequency of Submission: On occasion.

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Reporting Burden	6,671		37.8		1.5		379,941

Total Estimated Burden Hours: 379,941.

Status: Revision of a currently approved collection.

Authority: Sec. 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: January 23, 2002.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 02–2176 Filed 1–29–02; 8:45 am]

BILLING CODE 4210–72–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4579–FA–14]

Announcement of Funding Awards for Fiscal Year 2001 for the Housing Choice Voucher Program

AGENCY: Office of Public and Indian Housing, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this document notifies the public of funding awards for Fiscal Year (FY) 2001 to housing agencies (HAs) under the section 8 housing choice voucher program. The purpose of this notice is to publish the names, addresses, and the amount of the awards to housing agencies for housing conversion actions, special housing conversion fees, public housing relocations and replacements, litigation, and litigation counseling.

FOR FURTHER INFORMATION CONTACT: Deborah Hernandez, Director, Section 8 Financial Division, Office of Administration, Office of Public and Indian Housing, Room 4232, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–2934. Hearing- or speech-impaired individuals may call HUD's TDD number (202) 708–4594. (These telephone numbers are not toll-free).

SUPPLEMENTARY INFORMATION: The regulations governing the housing choice voucher program are published at 24 CFR part 982. The regulations for allocating housing assistance budget authority under section 213(d) of the Housing and Community Development Act of 1974 are published at 24 CFR part 791, subpart D.

The purpose of this rental assistance program is to assist eligible families to pay the rent for decent, safe, and sanitary housing. The FY 2001 awardees announced in this notice were provided Section 8 funds on an as needed basis, *i.e.*, not consistent with the provisions of a Notice of Funding Availability (NOFA). Announcements of awards provided consistent with NOFAs for family unification, mainstream housing, designated housing programs, and family self-sufficiency coordinators will be published in a separate **Federal Register** notice.

Awards published under this notice were provided: (1) To assist families living in HUD-owned properties that are being sold; (2) to assist families affected by the expiration or termination of assistance; (3) to assist families in properties where the owner has prepaid the HUD mortgage; (4) to provide special housing fees to compensate housing agencies for any extraordinary Section 8 administrative costs associated with the previous three categories; (5) to provide relocation and replacement housing in connection with the demolition of public housing; (6) to partially fulfill the Department's obligations in settlement decrees for lawsuits; and (7) to provide counseling and assistance to families so that they may move to areas that have low racial and ethnic concentrations.

A total of $215,558,491 in budget authority for rental vouchers (36,500 units) was awarded to recipients under all of the above-mentioned categories.

In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), the Department is publishing the names, addresses, and amounts of those awards as shown in Appendix A.

Dated: January 23, 2002.

Michael Liu,

Assistant Secretary for Public and Indian Housing.

APPENDIX A.—SECTION 8 RENTAL ASSISTANCE PROGRAMS ANNOUNCEMENT OF AWARDS FOR FISCAL YEAR 2001

Housing agency and address	Units	Award
LITIGATION		
DALLAS HSG AUTH, 3939 N. HAMPTON RD, DALLAS, TX 75212	500	$7,656,000
Total for Litigation	500	7,656,000
LITIGATION COUNSELING		
BRIDGEPORT HSG AUTH, 150 HIGHLAND AVENUE, BRIDGEPORT, CT 06604	0	366,000
Total for Litigation Counseling	0	366,000
PROPERTY DISPOSITION RELOCATION FEES		
MOBILE HOUSING BOARD, P.O. BOX 1345, MOBILE, AL 36633	0	15,250
PASADENA HSG AUTH, 100 N. GARFIELD AVE, ROOM 101, PASADENA, CA 91109	0	1,750
LAMAR HSG AUTH, 206 EAST CEDAR STREET, LAMAR, CO 81052	0	10,750

APPENDIX A.—SECTION 8 RENTAL ASSISTANCE PROGRAMS ANNOUNCEMENT OF AWARDS FOR FISCAL YEAR 2001—Continued

Housing agency and address	Units	Award
WATERBURY HSG AUTH, 2 LAKEWOOD ROAD, WATERBURY, CT 06704	0	14,000
KANKAKEE COUNTY HSG AUTH, 185 NORTH ST. JOSEPH AVENUE, KANKAKEE, IL 60901	0	30,750
CITY OF LOUISVILLE HA, 617 WEST JEFFERSON STREET, LOUISVILLE, KY 40202	0	15,500
BOWLING GREEN HSG AUTH, 1017 COLLEGE STREET, P.O. BOX 430, BOWLING GREEN, KY 42102	0	8,750
NEW IBERIA (CITY OF), 457 E MAIN STREET COURTHOUSE, RM 406, NEW IBERIA, LA 70560	0	31,250
MINNEAPOLIS PUB HSG AUTH, 1001 WASHINGTON AVE NORTH, MINNEAPOLIS, MN 55401	0	6,250
MISS REGIONAL HSG AUTH VIII, P.O. BOX 2347, GULFPORT, MS 39505	0	19,500
COUNTY OF CLARK HSG AUTH, 5390 EAST FLAMINGO ROAD, LAS VEGAS, NV 89122	0	6,500
NEW YORK CITY HSG AUTH, 250 BROADWAY, NEW YORK, NY 10007	0	16,250
DAYTON METRO HSG AUTH, 400 WAYNE AVE, P.O. BOX 8750, DAYTON, OH 45401	0	14,750
HSG AUTH OF CITY OF PITTSBURG, 200 ROSS STREET, PITTSBURGH, PA 15219	0	25,500
HARRISBURG HSG AUTH, 351 CHESTNUT STREET, P.O. BOX 3461, HARRISBURG, PA 17105	0	61,500
DALLAS HSG AUTH, 3939 N. HAMPTON RD, DALLAS, TX 75212	0	28,000
ARLINGTON HSG AUTH, 501 W. SANFORD, SUITE 20, ARLINGTON, TX 76011	0	12,500
OCONTO COUNTY HSG AUTH, 1201 MAIN STREET, OCONTO, WI 54153	0	2,750
WISCONSIN HSG & ECON DEV, P.O. BOX 1728, MADISON, WI 53701	0	2,250
Total for Property Disposition Relocation Fees	0	361,000
PRESERVATION/PREPAYMENT FEES		
AK HSG FINANCE CORP, P.O. BOX 101020, ANCHORAGE, AK 99510	0	11,000
HSG AUTH OF JEFFERSON COUNTY, 3700 INDUSTRIAL PARKWAY, BIRMINGHAM, AL 35217	0	41,500
CITY OF PHOENIX, NGBHD IMPROV, 251 W. WASHINGTON ST, 4TH FL, PHOENIX, AZ	0	1,500
TUCSON HSG MANAGEMENT DIV, 1501 N. ORACLE ROAD, STE 115, P.O. BOX 27210, TUCSON, AZ 85726	0	1,000
SAN FRANCISCO HSG AUTH, 440 TURK STREET, SAN FRANCISCO, CA 94102	0	2,500
LOS ANGELES COUNTY HSG AUTH, 2 CORAL CIRCLE, MONTEREY PARK, CA 91755	0	4,000
CITY OF LOS ANGELES HSG AUTH, 2600 WILSHIRE BLVD., 3RD FLOOR, LOS ANGELES, CA 90057	0	55,250
SACRAMENTO HSG & REDEV, P.O. BOX 1834, SACRAMENTO, CA 95812	0	85,500
COUNTY OF SANTA CLARA HSG AUTH, 505 WEST JULIAN ST, SAN JOSE, CA 95110	0	27,250
ALAMEDA COUNTY HSG AUTH, 22941 ATHERTON STREET, HAYWARD, CA 94541	0	23,166
LONG BEACH HSG AUTH, 521 E. 4TH STREET, LONG BEACH, CA 90802	0	15,750
SANTA CRUZ COUNTY HSG AUTH, 2160–41ST AVE, CAPITOLA, CA 95010	0	22,500
CITY OF SANTA ROSA, 90 SANTA ROSA AVE, P.O. BOX 1806, SANTA ROSA, CA 95402	0	7,500
ORANGE COUNTY HSG AUTH, 1770 NORTH BROADWAY, SANTA ANA, CA 92706	0	10,000
PUEBLO HSG AUTH, 1414 NO. SANTA FE AVENUE, PUEBLO, CO 81003	0	19,250
NORWICH HSG AUTH, 10 WESTWOOD PARK, NORWICH, CT 06360	0	17,500
CONN DEPT OF SOCIAL SERVICES, 25 SIGOURNEY STREET, 9TH FLOOR, HARTFORD, CT 06105	0	31,500
DC HSG AUTH, 1133 NO. CAPITOL STREET NE, WASHINGTON, DC 20002	0	56,750
BROWARD COUNTY HSG AUTH, 1773 NORTH STATE ROAD 7, LAUDERHILL, FL 33313	0	4,250
CITY AND COUNTY OF HONOLULU, 715 SOUTH KING ST., SUITE 311, HONOLULU, HI 96813	0	20,750
IDAHO HSG & FINANCE ASSN, 565 W MYRTLE STREET, P.O. BOX 7899, BOISE, ID 83707	0	7,500
CHICAGO HSG AUTH, 626 WEST JACKSON BLVD, CHICAGO, IL 60661	0	67,500
HSG AUTH OF COOK COUNTY, 310 SOUTH MICHIGAN AVENUE, 15TH FL, CHICAGO, IL 60604	0	1,250
FORT WAYNE HSG AUTH, P.O. BOX 13489, FORT WAYNE, IN 46869	0	31,750
INDIANA DEPT OF HUMAN SERVICES, P.O. BOX 6116, INDIANAPOLIS, IN 46206	0	21,000
JOHNSON COUNTY HSG AUTH, 9305 W. 74TH STREET, MERRIAM, KS 66204	0	24,500
COMMUNITY DEVELOPMENT AGENCY, 201 WEST WALNUT STREET, DANVILLE, KY 40422	0	11,500
LOWELL HSG AUTH, 350 MOODY STREET, LOWELL, MA 01853	0	35,250
CAMBRIDGE HSG AUTH, 675 MASSACHUSETTS AVENUE, CAMBRIDGE, MA 02139	0	37,250
NEW BEDFORD HSG AUTH, P.O. BOX A–2081, NEW BEDFORD, MA 02741	0	750
WORCESTER HSG AUTH, 40 BELMONT STREET, WORCESTER, MA 01605	0	3,500
MEDFORD HSG AUTH, 121 RIVERSIDE AVENUE, MEDFORD, MA 02155	0	71,000
QUINCY HSG AUTH, 80 CLAY STREET, QUINCY, MA 02170	0	27,000
NORTHAMPTON HSG AUTH, 49 OLD SOUTH STREET, NORTHAMPTON, MA 01060	0	51,750
WEBSTER HOUSING AUTHORITY, GOLDEN HEIGHTS, WEBSTER, MA 01570	0	1,750
DARTMOUTH HA, 2 ANDERSON WAY, N. DARTMOUTH, MA 02747	0	49,250
MONTGOMERY CO HSG AUTH, 10400 DETRICK AVENUE, KENSINGTON, MD 20895	0	26,000
HSG AUTH OF PRINCE GEORGE'S CO, 9400 PEPPERCORN PLACE, SUITE 200, LARGO, MD 20774	0	38,000
LANSING HOUSING COMMISSION, 310 NORTH SEYMOUR STREET, LANSING, MI 48933	0	32,500
MICHIGAN STATE HSG DEV AUTH, P.O. BOX 30044, LANSING, MI 48909	0	68,750
MICHIGAN STATE HSG. DEV. AUTH, P.O. BOX 30044, LANSING, MI 48909	0	12,000
ST PAUL PUB HSG AUTH, 480 CEDAR STREET, SUITE 600, ST. PAUL, MN 55101	0	14,750
DULUTH HRA, 222 EAST 2ND ST, P.O. BOX 16900, DULUTH, MN 55816	0	10,500
ST. CLOUD HRA, 619 MALL GERMAIN SUITE 212, ST. CLOUD, MN 56301	0	23,750
OWATONNA HRA, 540 WEST HILLS CIRCLE, OWATONNA, MN 55060	0	11,000
MISS REGIONAL HSG AUTH VIII, P.O. BOX 2347, GULFPORT, MS 39505	0	13,750
HSG AUTH OF CITY OF ASHEVILLE, P.O. BOX 1898, ASHEVILLE, NC 28801	0	3,750
HSG AUTH OF DURHAM, 330 E MAIN STREET P.O. BOX 1726, DURHAM, NC 27702	0	21,500
HICKORY PUB HSG AUTH, 841 S CENTER STREET, P.O. BOX 2927, HICKORY, NC 28603	0	4,750
GRAHAM HSG AUTH, 109 E HILL STREET, P.O. BOX 88, GRAHAM, NC 27253	0	5,250

APPENDIX A.—SECTION 8 RENTAL ASSISTANCE PROGRAMS ANNOUNCEMENT OF AWARDS FOR FISCAL YEAR 2001—Continued

Housing agency and address	Units	Award
ISOTHERMAL PLANNING & DEV COMM, 111 W COURT STREET, P.O. BOX 841, RUTHERFORDTON, NC 28139	0	3,500
NASHUA HSG AUTH, 101 MAJOR DRIVE, NASHUA, NH 03060	0	22,000
PORTSMOUTH HSG AUTH, 245 MIDDLE STREET, PORTSMOUTH, NH 03801	0	30,000
NEWARK HSG AUTHORITY, 57 SUSSEX AVENUE, NEWARK, NJ 07103	0	4,500
NEW YORK STATE HSG FIN AGENCY, 25 BEAVER STREET, RM 674, NEW YORK, NY 10004	0	1,750
COLUMBUS METRO HSG AUTH, 880 EAST 11TH AVENUE, COLUMBUS, OH 43211	0	66,250
CUYAHOGA METRO HSG AUTH, 1441 WEST 25TH STREET, CLEVELAND, OH 44113	0	3,000
CINCINNATI METRO HSG AUTH, 16 WEST CENTRAL PARKWAY, CINCINNATI, OH 45210	0	250
DAYTON METRO HSG AUTH, 400 WAYNE AVE, POST OFFICE BOX 8750, DAYTON, OH 45401	0	7,000
ZANESVILLE METRO HSG AUTH, 407 PERSHING ROAD, ZANESVILLE, OH 43701	0	2,500
PORTAGE METRO HSG AUTH, 2832 STATE ROUTE 59, RAVENNA, OH 44266	0	5,500
WAYNE METRO HSG AUTH, 200 SOUTH MARKET STREET, WOOSTER, OH 44691	0	10,250
HAMILTON COUNTY PUB HSG AUTH, 138 EAST COURT STREET ROOM 507, CINCINNATI, OH 45202	0	20,750
FAIRFIELD METRO HSG AUTH, 1506 AMHERST PLACE, LANCASTER, OH 43130	0	14,750
HSG AUTH OF CO OF CHESTER, 30 W. BARNARD ST., WEST CHESTER, PA 19382	0	23,750
BUCKS COUNTY HSG AUTH, 350 SOUTH MAIN STREET, SUITE 205, DOYLESTOWN, PA 18901	0	149,250
ERIE COUNTY HSG AUTH, 120 S. CENTER, CORRY, PA 16407	0	48,500
WOONSOCKET HSG AUTH, 679 SOCIAL ST, WOONSOCKET, RI 02895	0	8,500
HSG AUTH OF GREENVILLE, P.O. BOX 10047, GREENVILLE, SC 29603	0	44,000
HA OF SOUTH CAROLINA REG NO 1, P.O. BOX 326, LAURENS, SC 29360	0	1,750
HSG AUTH OF BEAUFORT, P.O. BOX 1104, BEAUFORT, SC 29901	0	4,500
SIOUX FALLS HSG AUTH, 804 S. MINNESOTA, SIOUX FALLS, SD 57104	0	750
AUSTIN HSG AUTH, P.O. BOX 6159, AUSTIN, TX 78762	0	43,750
FORT WORTH HSG AUTH, P.O. BOX 430, 1201 E. 13TH ST., FORT WORTH, TX 76101	0	36,500
HOUSTON HSG AUTH, 2640 FOUNTAIN VIEW, HOUSTON, TX 77057	0	42,000
SAN ANTONIO HSG AUTH, 818 S. FLORES STREET, P.O. BOX 1300, SAN ANTONIO, TX 78295	0	57,750
DALLAS HSG AUTH, 3939 N. HAMPTON RD., DALLAS, TX 75212	0	50,500
DENTON HSG AUTH, 1225 WILSON STREET, DENTON, TX 76205	0	21,750
TARRANT COUNTY HSG AUTH, 1200 CIRCLE DR., #100, FORT WORTH, TX 76119	0	29,750
ARLINGTON HSG AUTH, 501 W. SANFORD, SUITE 20, ALRINGTON, TX 76011	0	6,500
GARLAND HSG AUTH, P.O. BOX 469002, 210 CARVER STREET, SUITE 201B, GARLAND, TX 75046	0	53,250
MESQUITE HSG AUTH 1515 N. GALLOWAY, P.O. 850137, MESQUITE, TX 75185	0	61,041
LANCASTER HSG AUTH, P.O. BOX 310, 525 WEST PLEASANT RUN, LANCASTER, TX 75146	0	107,250
NORFOLK REDEVELOPMENT & H/A, 201 GRANBY ST, NORFOLK, VA 23510	0	20,250
VIRGINIA HSG DEV AUTH, 601 SOUTH BELVIDERE STREET, RICHMOND, VA 23220	0	15,000
HA CITY OF PASCO & FRANKLIN CO, 820 NORTH FIRST AVENUE, PASCO, WA 99301	0	6,500
HSG AUTH OF CITY OF SPOKANE, WEST 55 MISSION ST, SUITE 104, SPOKANE, WA 99201	0	7,500
HA OF CITY OF WALLA WALLA, 501 CAYUSE STREET, WALLA WALLA, WA 99362	0	6,250
Total for Preseveration/Prepayment Fees	0	$2,225,707
PRESERVATION/PREPAYMENT		
AK HSG FINANCE CORP P.O. BOX 101020, ANCHORAGE, AK 99510	60	360,720
HSG AUTH OF JEFFERSON COUNTY, 3700 INDUSTRIAL PARKWAY, BIRMINGHAM, AL 35217	192	787,968
CITY OF PHOENIX NGBHD IMPROVE, 251 W. WASHINGTON ST., 4TH FL, PHOENIX, AZ 85003	6	34,272
TUCSON HSG MANAGEMENT DIV, 1501 N. ORACLE ROAD, STE 115, P.O. BOX 27210, TUCSON, AZ 85726	4	21,312
SAN FRANCISCO HSG AUTH, 440 TURK STREET, SAN FRANCISCO, CA 94102	10	101,040
LOS ANGELES COUNTY HSG AUTH, 2 CORAL CIRCLE, MONTEREY PARK, CA 91755	16	107,136
CITY OF LOS ANGELES HSG AUTH, 2600 WILSHIRE BLVD., 3RD FLOOR, LOS ANGELES, CA 90057	221	1,561,680
SACRAMENTO HSG & REDEVELOPMENT, P.O. BOX 1834, SACRAMENTO, CA 95812	342	1,777,548
COUNTY OF SANTA CLARA HSG AUTH, 505 WEST JULIAN ST, SAN JOSE, CA 95110	111	1,216,116
ALAMEDA COUNTY HSG AUTH, 22941 ATHERTON STREET, HAYWARD, CA 94541	68	780,384
LONG BEACH HSG AUTH, 521 E. 4TH STREET, LONG BEACH, CA 90802	63	405,216
SANTA CRUZ COUNTY HSG AUTH, 2160 41ST AVE, CAPITOLA, CA 95010	90	913,680
CITY OF SANTA ROSA HSG AUTH, 90 SANTA ROSA AVE. P.O. BOX 1806, SANTA ROSA, CA 95402	30	216,360
ORANGE COUNTY HSG AUTH, 1170 NORTH BROADWAY, SANTA ANA, CA 92706	40	282,240
PUEBLO HSG AUTH, 1414 NO. SANTA FE AVENUE, PUEBLO, CO 81003	91	481,572
NORWHICH HSG AUTH, 10 WESTWOOD PARK, NORWICH, CT 06360	110	646,800
CONN DEPT OF SOCIAL SERVICES, 25 SIGOURNEY STREET, 9TH FLOOR, HARTFORD, CT 06105	73	733,626
D.C HSG AUTH, 1133 NORTH CAPITOL STREET NE, WASHINGTON, DC 20002	239	1,987,524
BROWARD COUNTY HOUSING AUTHORI, 1773 NORTH STATE ROAD 7, LAUDERHILL, FL 33313	17	112,812
CITY AND COUNTY OF HONOLULU, 715 SOUTH KING ST., SUITE 311, HONOLULU, HI 96813	106	862,416
IDAHO HSG & FINANCE ASSN, 565 2 MYRTLE STREET, P.O. BOX 7899, BOISE, ID 83707	32	129,408
CHICAGO HSG AUTH, 626 WEST JACKSON BLVD, CHICAGO, IL 60661	322	2,442,048
HSG AUTH OF COOK COUNTY, 310 SOUTH MICHIGAN AVENUE, 15TH FL, CHICAGO, IL 60604	5	36,300
FORT WAYNE HSG AUTH, P.O. BOX 13489, FORT WAYNE, IN 46869	130	650,520
INDIANA DEPT OF HUMAN SERVICES, P.O. BOX 6116, INDIANAPOLIS, IN 46206	106	381,996
JOHNSON COUNTY HSG AUTH, 9305 W. 74TH STREET, MERRIAM, KS 66201	125	636,000
COMMUNITY DEVELOPMENT AGENCY, 201 WEST WALNUT STREET, DANVILLE, KY 40422	50	162,600

APPENDIX A.—SECTION 8 RENTAL ASSISTANCE PROGRAMS ANNOUNCEMENT OF AWARDS FOR FISCAL YEAR 2001—Continued

Housing agency and address	Units	Award
LOWELL, HSG AUTH, 350 MOODY STREET, LOWELL, MA 01853	141	888,300
CAMBRIDGE HSG AUTH, 675 MASSACHUSETTS AVENUE, CAMBRIDGE, MA 02139	149	1,582,380
NEW BEDFORD HSG AUTH, P.O. BOX A–2081, NEW BEDFORD, MA 02741	3	15,516
WORCESTER HSG AUTH, 40 BELMONT STREET, WORCESTER, MA 01605	23	131,376
QUINCY HSG AUTH, 80 CLAY STREET, QUINCY, MA 02170	108	846,768
NORTHAMPTON HSG AUTH, 49 OLD SOUTH STREET, NORTHAMPTON, MA 01060	207	1,363,716
WEBSTER HSG AUTH, GOLDEN HEIGHTS, WEBSTER, MA 01570	7	42,504
DARTMOUTH HSG AUTH, 2 ANDERSON WAY, N. DARTMOUTH, MA 02747	197	1,510,596
MONTGOMERY CO HSG AUTH, 10400 DETRICK AVENUE, KENSINGTON, MD 20895	104	876,096
HSG AUTH OF PRINCE GEORGE'S CO, 9400 PEPPERCORN PLACE SUITE 200, LARGO, MD 20774	172	1,556,256
LANSING HOUSING COMMISSION, 310 NORTH SEYMOUR STREET, LANSING MI 48933	130	624,000
MICHIGAN STATE HSG DEV AUTH, P.O. BOX 30044, LANSING, MI 48909	423	2,141,020
MICHIGAN STATE HSG DEV AUTH, P.O. BOX 30044, LANSING, MI 48909	48	188,352
ST. CLOUD HRA, 619 MALL GERMAIN SUITE 212, ST. CLOUD, MN 56301	100	403,776
OWATONNA HRA, 540 WEST HILLS CIRCLE, OWATONNA, MN 55060	44	155,760
MISS REGIONAL HSG AUTH VIII, P.O. BOX 2347, GULFPORT, MS 39505	59	259,836
HSG AUTH OF CITY OF ASHEVILLE, P.O. BOX 1898, ASHEVILLE, NC 28801	26	101,088
HSG AUTH OF DURHAM, 330 E MAIN STREET, P.O. BOX 1726, DURHAM, NC 27702	143	799,656
HICKORY PUB HSG AUTH, 841 S CENTER STREET, P.O. BOX 2927, HICKORY, NC 28603	19	74,100
GRAHAM HSG AUTH, 109 E HILL STREET, P.O. BOX 88, GRAHAM, NC 27253	21	94,500
ISOTHERMAL PLANNING & DEV COMM, 111 W COURT STREET, P.O. BOX 841, RUTHERFORDTON, NC 28139	44	154,704
PORTSMOUTH HSG AUTH, 245 MIDDLE STREET, PORTSMOUTH, NH 03801	120	699,840
NEWARK HSG AUTH, 57 SUSSEX AVENUE, NEWARK, NJ 07103	31	203,856
NEW YORK STATE HSG FIN AGENCY, 25 BEAVER STREET, RM 674, NEW YORK, NY 10004	7	54,768
COLUMBUS METRO HSG AUTH, 880 EAST 11TH AVENUE, COLUMBUS, OH 43211	373	1,911,252
CUYAHOGA METRO HSG AUTH, 1441 WEST 25TH STREET, CLEVELAND, OH 44113	12	65,088
CINCINNATI METRO HSG AUTH, 16 WEST CENTRAL PARKWAY, CINCINNATI, OH 45210	1	4,644
DAYTON METRO HSG AUTH, 400 WAYNE AVE, POST OFFICE BOX 8750, DAYTON, OH 45401	32	145,920
ZANESVILLE METRO HSG AUTH, 407 PERSHING ROAD, ZANESVILLE, OH 43701	10	34,320
PORTAGE METRO HSG AUTH, 2832 STATE ROUTE 59, RAVENNA, OH 44266	36	111,408
WAYNE METRO HSG AUTH, 200 SOUTH MARKET STREET, WOOSTER, OH 44691	50	190,200
HAMILTON COUNTY PUBLIC HSG, 138 EAST COURT STREET ROOM 507, CINCINNATI, OH 45202	120	613,440
FAIRFIELD METRO HSG AUTH, 1506 AMHERST PL., LANCASTER, OH 43130	60	248,400
HSG AUTH OF COUNTY OF CHESTER, 30 W. BARNARD ST., WEST CHESTER, PA 19382	95	685,140
BUCKS COUNTY HSG AUTH, 350 SOUTH MAIN STREET, SUITE 205, DOYLESTOWN, PA 18901	597	3,474,540
ERIE COUNTY HSG AUTH, 120 S. CENTER, CORRY, PA 16407	194	731,568
WOONSOCKET HSG AUTH, 679 SOCIAL ST., WOONSOCKET, RI 02895	37	192,696
HSG AUTH OF GREENVILLE, P.O. BOX 10047, GREENVILLE, SC 29603	176	813,120
HA OF SOUTH CAROLINA REG NO 1, P.O. BOX 326, LAURENS, SC 29360	10	32,040
HSG AUTH OF BEAUFORT, P.O. BOX 1104, BEAUFORT, SC 29901	20	84,000
SIOUX FALLS HSG AUTH, 804 S. MINNESOTA, SIOUX FALLS, SD 57104	3	13,464
AUSTIN HSG AUTH, P.O. BOX 6159, AUSTIN, TX 78762	235	1,680,720
FORT WORTH HSG AUTH, P.O. BOX 430, 1201 E. 13TH ST., FORT WORTH, TX 76101	146	753,360
HOUSTON HSG AUTH, 2640 FOUNTAIN VIEW, HOUSTON, TX 77057	170	992,040
SAN ANTONIO HSG AUTH, 818 S. FLORES STREET, P.O. BOX 1300, SAN ANTONIO, TX 78295	268	1,551,936
DALLAS HSG AUTH, 3939 N. HAMPTON RD., DALLAS, TX 75212	202	1,546,512
DENTON HSG AUTH, 1225 WILSON STREET, DENTON, TX 76205	87	528,864
TARRANT COUNTY HSG AUTH, 1200 CIRCLE DR., #100, FORT WORTH, TX 76119	128	645,888
ARLINGTON HSG AUTH, 501 W. SANFORD, SUITE 20, ARLINGTON, TX 76011	26	154,752
GARLAND HSG AUTH, 210 CARVER STREET, SUITE 201B, GARLAND, TX 75046	216	1,355,616
MESQUITE HSG AUTH, 1515 N. GALLOWAY, P.O. BOX 850137, MESQUITE, TX 75185	122	1,392,320
LANCASTER HSG AUTH, P.O. BOX 310, 525 WEST PLEASANT RUN, LANCASTER, TX 75146	434	2,574,720
NORFOLK REDEV & HSG AUTH, 201 GRANBY ST., NORFOLK, VA 23510	83	364,536
VIRGINIA HSG DEVELOPMENT AUTH, 601 SOUTH BEL VIDERE STREET, RICHMOND, VA 23220	60	280,800
HA CITY OF PASCO & FRANKLIN CO, 820 NORTH FIRST AVENUE, PASCO, WA 99301	26	131,040
HSG AUTH OF CITY OF SPOKANE, WEST 55 MISSION ST., SUITE 104, SPOKANE, WA 99201	37	153,624
HSG AUTH OF WALLA WALLA, 501 CAYUSE STREET, WALLA WALLA, WA 99362	28	104,160
Total for Preservation/Prepayments	9,079	56,160,186
PROPERTY DISPOSITION RELOCATION		
MOBILE HOUSING BOARD, P.O. BOX 1345, MOBILE, AL 36633	90	399,600
HSG AUTH OF DECATUR, P.O. BOX 878, DECATUR, AL 35602	24	93,600
HSG AUTH OF EUFAULA, P.O. BOX 36, EUFAULA, AL 36027	52	133,529
HSG AUTH OF CITY OF LITTLE ROCK, 1000 WOLFE STREET, LITTLE ROCK, AR 72202	0	171,841
PASADENA HSG AUTH, 100 N. GARFIELD AVE., ROOM 101, PASADENA, CA 91109	12	79,344
LAMAR HSG AUTH, 206 EAST CEDAR STREET, LAMAR, CO 81052	48	207,360
WATERBURY HSG AUTH, 2 LAKEWOOD ROAD, WATERBURY, CT 06704	80	446,400
HSG AUTH OF ATLANTA GA, 739 WEST PEACHTREE STREET NE., ATLANTA, GA 30308	208	1,520,064
CHICAGO HSG AUTH, 626 WEST JACKSON BLVD, CHICAGO, IL 60661	59	548,045

APPENDIX A.—SECTION 8 RENTAL ASSISTANCE PROGRAMS ANNOUNCEMENT OF AWARDS FOR FISCAL YEAR 2001—Continued

Housing agency and address	Units	Award
KANKAKEE COUNTY HSG AUTH, 185 NORTH ST. JOSEPH AVENUE, KANKAKEE, IL 60901	132	614,592
TOPEKA HSG AUTH, 2010 SE CALIFORNIA AVE., TOPEKA, KS 66607	30	134,640
CITY OF LOUISVILLE HSG AUTH, 617 WEST JEFFERSON STREET, LOUISVILLE, KY 40202	62	238,824
BOWLING GREEN HA, 1017 COLLEGE STREET, P.O. BOX 430, BOWLING GREEN, KY 42102	68	237,456
KENTUCKY HSG CORPORATION, 1231 LOUISVILLE ROAD, FRANKFORT, KY 40601	60	236,054
CITY OF NEW IBERIA HSG AUTH, 457 E MAIN STREET COURTHOUSE, RM 406, NEW IBERIA, LA 70560	126	367,416
MICHIGAN STATE HSG DEV AUTH, P.O. BOX 30044, LANSING, MI 48909	216	931,728
MINNEAPOLIS PUB HSG AUTH, 1001 WASHINGTON AVE NORTH, MINNEAPOLIS, MN 55401	30	207,000
WORTHINGTON HRA, 819 TENTH STREET, WORTHINGTON, MN 56187	24	64,800
HSG AUTH OF KANSAS CITY, 301 EASTARMOUR BLVD., KANSAS CITY, MO 64111	240	1,165,338
MISS REGIONAL HSG AUTH VIII, P.O. BOX 2347, GULFPORT, MS 39505	208	913,536
COUNTY OF CLARK HSG AUTH, 5390 EAST FLAMINGO ROAD, LAS VEGAS, NV 89122	26	156,000
NEW YORK CITY HSG AUTH, 250 BROADWAY, NEW YORK, NY 10007	76	552,672
DAYTON METRO HSG AUTH, 400 WAYNE AVE, P.O. BOX 8750, DAYTON, OH 45401	79	360,240
HSG AUTH CITY OF PITTSBURG, 200 ROSS STREET, PITTSBURGH, PA 15219	423	2,005,020
HARRISBURG HSG AUTH, 351 CHESTNUT STREET, P.O. BOX 3461, HARRISBURG, PA 17105	301	1,524,264
PUERTO RICO HSG FINANCE CORP, CALL BOX 71361–GPO, SAN JUAN, PR 00936	50	271,200
HSG AUTH OF AIKEN, P.O. BOX 889, AIKEN, SC 29802	88	441,408
YANKTON HSG & REDEV COMMISSION, P.O. BOX 176, YANKTON, SD 57078	36	98,928
CHATTANOOGA HSG AUTH, P.O. BOX 1486, CHATTANOOGA, TN 37402	204	708,312
DALLAS HSG AUTH, 3939 N. HAMPTON RD, DALLAS, TX 75212	112	857,472
WACO HSG AUTH, P.O. BOX 978, 1001 WASHINGTON, WACO, TX 76703	224	916,608
ARLINGTON HSG AUTH, 501 W. SANFORD, SUITE 20, ARLINGTON, TX 76011	50	298,200
MARINETTE CO HSG AUTH, 926 MAIN STREET, P.O. BOX 438, WAUSAUKEE, WI 54177	60	109,032
OCONTO COUNTY HSG AUTH, 1201 MAIN STREET, OCONTO, WI 54153	20	60,720
WISCONSIN HSG & ECON DEV AUTH, P.O. BOX 1728, MADISON, WI 53701	20	73,680
Total for Property Disposition Relocation	3,538	17,144,923
PUBLIC HOUSING RELOCATION/REPLACEMENT		
HSG AUTH OF BIRMINGHAM DIST, 1826 3RD AVE. SOUTH, BIRMINGHAM, AL 35233	320	934,704
HSG AUTH OF CITY OF LITTLE ROCK, 1000 WOLFE STREET, LITTLE ROCK, AR 72202	233	974,369
TUCSON HSG MANAGEMENT DIV, 1501 N. ORACLE ROAD, SUITE 115 P.O. BOX 27210, TUCSON, AZ 85726	78	426,816
SAN FRANCISCO HSG AUTH, 440 TURK STREET, SAN FRANCISCO, CA 94102	114	1,108,794
DENVER HSG AUTH, 777 GRANT STREET, DENVER, CO 80203	25	197,400
BRIDGEPORT HSG AUTH, 150 HIGHLAND AVENUE, BRIDGEPORT, CT 06604	6	36,864
HSG AUTH OF CITY OF NEW HAVEN, 360 ORANGE STREET, NEW HAVEN, CT 06511	18	132,500
WILMINGTON HSG AUTH, 400 WALNUT STREET, WILMINGTON, DE 19801	230	1,476,600
HSG AUTH OF SARASOTA, 1300 SIXTH STREET, SARASOTA, FL 34236	9	52,897
HSG AUTH OF WEST PALM BEACH, 3801 GEORGIA AVE, WEST PALM BEACH, FL 33405	20	115,440
BRADENTON HSG AUTH, 1300 5TH STREET WEST, BRADENTON, FL 34205	80	529,828
HSG AUTH OF SAVANNAH, P.O. BOX 1179, SAVANNAH, GA 31402	174	598,398
NEWNAN HSG AUTH, P.O. BOX 881, NEWNAN, GA 30264	68	353,872
CHICAGO HSG AUTH, 626 WEST JACKSON BLVD, CHICAGO, IL 60661	2,624	19,417,600
GARY HSG AUTH, 578 BROADWAY, GARY, IN 46402	50	280,200
LOUISVILLE HSG AUTH, 420 SOUTH EIGHTH STREET, LOUISVILLE, KY 40203	146	830,448
LEXINGTON–FAYETTE CO HSG AUTH, 300 NEW CIRCLE ROAD, LEXINGTON, KY 40505	154	458,211
CAMBRIDGE HSG AUTH, 675 MASSACHUSETTS AVENUE, CAMBRIDGE, MA 02139	25	265,500
HSG AUTH OF BALTIMORE CITY, 417 EAST FAYETTE STREET, BALTIMORE, MD 21201	676	2,904,398
MERIDIAN HSG AUTH, N/A P.O. BOX 870, MERIDIAN, MS 39302	148	617,456
HSG AUTH OF BILOXI, P.O. BOX 447, BILOXI, MS 39533	58	259,403
MISSOULA HSG AUTH, 1319 E. BROADWAY, MISSOULA, MT 59802	35	137,864
HSG AUTH OF WINSTON–SALEM, 901 CLEVELAND AVENUE, WINSTON–SALEM, NC 27101	206	821,802
HSG AUTH OF DURHAM, 330 E MAIN STREET, P.O. BOX 1726, DURHAM, NC 27702	80	336,559
SALISBURY HSG AUTH, 200 S BOUNDARY STREET, P.O. BOX 159, SALISBURY, NC 28145	44	291,976
NEWARK HSG AUTH, 57 SUSSEX AVENUE, NEWARK, NJ 07103	563	4,614,348
CAMDEN HSG AUTH, 1300 ADMIRAL WILSON BLVD, P.O. BOX 1426, CAMDEN, NJ 08101	63	727,272
ORANGE CITY HSG AUTH, 340 THOMAS BOULEVARD, ORANGE, NJ 07050	39	281,268
EAST ORANGE HSG AUTH, 160 HALSTED STREET, EAST ORANGE, NJ 07018	34	248,880
CITY OF LAS VEGAS HSG AUTH, 420 N. 10TH STREET, P.O. BOX 1897, LAS VEGAS, NV 89125	184	1,349,088
HSG AUTH OF TROY, 1 EDDYS LAND, TROP, NY 12180	144	552,321
CUYAHOGA METRO HSG AUTH, 1441 WEST 25TH STREET, CLEVELAND, OH 44113	139	753,936
CINCINNATI METRO HSG AUTH, 16 WEST CENTRAL PARKWAY, CINCINNATI, OH 45210	692	2,128,221
TULSA HSG AUTH, P.O. BOX 6369, TULSA, OK 74148	80	175,340
PHILADELPHIA HSG AUTH, 12 SOUTH 23RD STREET, PHILADELPHIA, PA 19103	464	2,095,294
MERCER COUNTY HSG AUTH, 80 JEFFERSON AVENUE, P.O. BOX 683, SHARON, PA 16146	18	53,352
DELAWARE COUNTY HSG AUTH, 1855 CONSTITUTION AVENUE, P.O. BOX 100, WOODLYN, PA 19094	18	95,840
POTTSVILLE HSG AUTH, 410 LAUREL BLVD, POTTSVILLE, PA 17901	2	9,216

APPENDIX A.—SECTION 8 RENTAL ASSISTANCE PROGRAMS ANNOUNCEMENT OF AWARDS FOR FISCAL YEAR 2001—Continued

Housing agency and address	Units	Award
HSG AUTH OF COUNTY OF CHESTER, 30 W. BARNARD ST, WEST CHESTER, PA 19382	22	149,073
HSG AUTH OF GREENVILLE, P.O. BOX 10047, GREENVILLE, SC 29603	279	249,696
HSG AUTH OF AIKEN, P.O. BOX 889, AIKEN, SC 29802	60	223,426
HSG AUTH OF LAKE CITY, P.O. BOX 1017, LAKE CITY, SC 29560	42	188,856
HSG AUTH OF MEMPHIS, 700 ADAMS AVE, P.O. BOX 3664, MEMPHIS, TN 38103	216	1,150,848
CHATTANOOGA HSG AUTH, P.O. BOX 1486, CHATTANOOGA, TN 37402	203	930,552
METROPOLITAN DEVELOPMENT & HSG, 701 SOUTH SIXTH STREET, P.O. BOX 846, NASHVILLE, TN 37202	65	367,380
VIRGIN ISLANDS HSG AUTH, P.O. BOX 7668, ST. THOMAS, VI 00801	8	58,560
HSG AUTH OF CITY OF SEATTLE, 120 SIXTH AVENUE NORTH, SEATTLE, WA 98109	376	2,296,257
HSG AUTH OF CITY OF TACOMA, 902 SOUTH "L" STREET, TACOMA, WA 98405	400	2,508,587
WHEELING HSG AUTH, P.O. BOX 2089, WHEELING, WV 26003	75	219,916
Total for Public Housing Relocation/Replacement	9,807	54,987,426
SECTION 8 COUNSELING		
DALLAS HSG AUTH, 3939 N. HAMPTON RD, DALLAS, TX 75212	0	860,000
Total for Section 8 Counseling	0	860,000
TERMINATION/OPT-OUT/PROPERTY DISPOSITION FEES		
AK HSG FINANCE CORP, P.O. BOX 101020, ANCHORAGE, AK 99510	0	6,000
MOBILE HOUSING BOARD, P.O. BOX 1345, MOBILE, AL 36633	0	7,250
HSG AUTH OF HUNTSVILLE, P.O. BOX 486, HUNTSVILLE, AL 35804	0	16,250
HA DECATUR, P.O. BOX 878, DECATUR, AL 35602	0	34,250
HA OZARK, P.O. BOX 566, OZARK, AL 36361	0	12,000
HA EUFAULA, P.O. BOX 36, EUFAULA, AL 36027	0	10,250
HA PRICHARD, P.O. BOX 10307, PRICHARD, AL 36610	0	23,250
HA OF THE CITY OF LITTLE ROCK, 1000 WOLFE STREET, LITTLE ROCK, AR 72202	0	45,750
TUCSON HOUSING MANAGEMENT DIV, 1501 N. ORACLE ROAD, SUITE 115 P.O. BOX 27210, TUCSON, AZ 85726	0	23,750
WINSLOW HSG AUTH, 900 W. HENDERSON SQ, WINSLOW, AZ 86047	0	21,250
TEMPE HSG AUTH, 132 E. 6TH ST, SUITE 201 P.O. BOX 5002, TEMPE, AZ 85280	0	9,000
LOS ANGELES COUNTY HSG AUTH, 2 CORAL CIRCLE, MONTEREY PARK, CA 91755	0	21,500
CITY OF LOS ANGELES HSG AUTH, 2600 WILSHIRE BLVD., 3RD FLOOR, LOS ANGELES, CA 90057	0	24,500
SACRAMENTO HSG & REDEVELOPMENT, P.O. BOX 1834, SACRAMENTO, CA 95812	0	97,250
CITY OF FRESNO HSG AUTH, 1331 FULTON MALL, FRESNO, CA 93776	0	20,000
COUNTY OF CONTRA COSTA HSG AUTH, 3133 ESTUDILLO ST, P.O. BOX 2759, MARTINEZ, CA 94553	0	24,750
COUNTY OF STANISLAUS HSG AUTH, 1701 ROBERTSON ROAD, MODESTO, CA 95351	0	11,000
COUNTY OF BUTTE HSG AUTH, 580 VALLOMBROSA AVE, CHICO, CA 95926	0	5,000
YOLO COUNTY HSG AUTH, P.O. BOX 1867, WOODLAND, CA 95776	0	11,500
COUNTY OF SUTTER HSG AUTH, 448 GARDEN HIGHWAY, P.O. BOX 631, YUBA CITY, CA 95992	0	6,000
SAN JOSE HSG AUTH, 505 WEST JULIAN STREET, SAN JOSE, CA 95110	0	19,250
CITY OF FAIRFIELD HSG AUTH, 823–B JEFFERSON STREET, FAIRFIELD, CA 94533	0	5,750
SANTA CRUZ COUNTY HSG AUTH, 2160–41ST AVE, CAPITOLA, CA 95010	0	27,500
HSG AUTH OF CITY OF LIVERMORE, 3203 LEAHY WAY, LIVERMORE, CA 94550	0	11,750
COUNTY OF SONOMA HSG AUTH, 1440 GUERNEVILLE ROAD, SANTA ROSA, CA 95403	0	15,750
CITY OF SANTA ROSA HSG AUTH, 90 SANTA ROSA AVE, P.O. BOX 1806, SANTA ROSA, CA 95402	0	11,750
PICO RIVERA HSG AUTH, 6615 S. PASSONS BLVD, PICO RIVERA, CA 90660	0	1,500
CITY OF VACAVILLE HSG AUTH, 40 ELDERIDGE AVENUE, SUITES 1–5, VACAVILLE, CA 95687	0	7,000
DENVER HSG AUTH, 777 GRANT STREET, DENVER, CO 80203	0	10,500
PUEBLO HSG, 1414 NO. SANTA FE AVENUE, PUEBLO, CO 81003	0	1,500
LAKEWOOD HSG AUTH, 445 S. ALLISON PARKWAY, LAKEWOOD, CO 80226	0	15,000
GRAND JUNCTION HSG AUTH, 1011 NORTH TENTH STREET, GRAND JUNCTION, CO 81501	0	9,000
TORRINGTON HSG AUTH, 110 PROSPECT STREET, TORRINGTON, CT 06790	0	1,750
DC HSG AUTH, 1133 NORTH CAPITOL STREET NE, WASHINGTON, DC 20002	0	12,000
ORANGE CO SECTION 8, 525 EAST SOUTH STREET, ORLANDO, FL 32801	0	5,000
HSG AUTH OF SAVANNAH, P.O. BOX 1179, SAVANNAH, GA 31402	0	4,750
HSG AUTH ATLANTA GA, 739 WEST PEACHTREE STREET NE, ATLANTA, GA 30308	0	15,750
COLLEGE PARK HSG AUTH, 1908 WEST PRINCETON AVENUE, COLLEGE PARK, GA 30337	0	16,750
HSG AUTH OF DEKALB COUNTY, P.O. BOX 1627, DECATUR, GA 30031	0	10,000
HSG AUTH OF FULTON COUNTY, 10 PARK PLACE SE, SUITE 550, ATLANTA, GA 30303	0	250
DCA, 60 EXECUTIVE PARK SOUTH, NE STE 250, ATLANTA, GA 30329	0	11,000
CITY AND COUNTY OF HONOLULU, 715 SOUTH KING ST., SUITE 311, HONOLULU, HI 96813	0	7,000
CITY OF CEDAR RAPIDS HSG AUTH, 1211 SIXTH STREET SW, CEDAR RAPIDS, IA 52401	0	20,250
MUSCATINE HSG AUTH, CITY HALL, 215 SYCAMORE, MUSCATINE, IA 52761	0	11,500
GRINNELL LOW RENT HSG AUTH, 927 4TH AVENUE, GRINNELL, IA 50112	0	13,250
DUBUQUE DEPT OF HUMAN RIGHTS, 1805 CENTRAL AVENUE, DUBUQUE, IA 52001	0	3,000
CITY OF AMES DEPT. OF PLANNING, 515 CLARK AVENUE, AMES, IA 50010	0	8,500

APPENDIX A.—SECTION 8 RENTAL ASSISTANCE PROGRAMS ANNOUNCEMENT OF AWARDS FOR FISCAL YEAR 2001—Continued

Housing agency and address	Units	Award
OSKALOOSA MUNICIPAL PHA, 220 SOUTH MARKET, OSKALOOSA, IA 52577	0	10,750
CITY OF MASON HSG AUTH, 10–IST STREET M.W., MASON CITY, IA 50401	0	11,500
REGIONAL HSG AUTH—VOUCHER XI, 108 WEST 6TH ST P.O. BOX 663, CARROLL, IA 51401	0	1,250
NORTH IOWA REGIONAL HSG AUTH, 217 2ND STREET SW, MASON CITY, IA 50401	0	4,250
SOUTHEAST IOWA REGIONAL HSG AU, 214 N. 4TH P.O. BOX 397, BURLINGTON, IA 52601	0	5,750
UPPER EXPLORERLAND REG HSG AUTH, 134 W. GREENE ST., POSTVILLE, IA 52162	0	17,000
CENTRAL IOWA REG HSG AUTH, 950 OFFICE PARK ROAD, STE 321, WEST DESMOINES, IA 50265	0	26,500
MID IOWA REGIONAL HSG AUTH, 1814 CENTRAL AVENUE, FORT DODGE, IA 50501	0	9,500
SIOUXLAND REGIONAL HSG AUTH, 314 COMMERCE BLDG, SIOUX CITY, IA 51101	0	11,250
IDAHO HSG & FINANCE ASSN, 565 W MYRTLE STREET P.O. BOX 7899, BOISE, ID 83707	0	12,000
CHICAGO HSG AUTH, 626 WEST JACKSON BLVD, CHICAGO, IL 60661	0	137,000
PERORIA HSG AUTH, 100 SOUTH SHERIDAN ROAD, PEORIA, IL 61605	0	12,000
HSG AUTH OF COOK COUNTY, 310 SOUTH MICHIGAN AVENUE 15TH FLOOR, CHICAGO, IL 60604	0	13,500
HSG AUTH OF COUNTY OF LAKE, 33928 N ROUTE 45, GRAYSLAKE, IL 60030	0	5,000
FORT WAYNE HSG AUTH, P.O. BOX 13489, FORT WAYNE, IN 46869	0	23,250
HSG AUTH OF CITY OF EVANSVILLE, P.O. BOX 3605, 500 COURT STREET, EVANSVILLE, IN 47735	0	51,000
INDIANAPOLIS HSG AGENCY, 1919 N. MERIDIAN STREET, INDIANAPOLIS, IN 46202	0	66,250
ELKHART HSG AUTH, 1396 BENHAM AVE, ELKHART, IN 46516	0	18,500
ELWOOD HSG AUTH, 1602 SOUTH "A" STREET, ELWOOD, IN 46036	0	12,000
LOGANSPORT HSG AUTH, 417 NORTH STREET SUITE 102, LOGANSPORT, IN 46947	0	11,500
INDIANA DEPT OF HUMAN SERVICES, P.O. BOX 6116, INDIANAPOLIS, IN 46206	0	36,000
TOPEKA HSG AUTH, 2010 SE CALIFORNIA AVE, TOPEKA, KS 66607	0	6,500
DODGE CITY HSG AUTH, 407 EAST BEND, DODGE CITY, KS 67801	0	5,500
FORD COUNTY HSG AUTH, P.O. BOX 1636, DODGE CITY, KS 67801	0	5,000
RILEY COUNTY HSG AUTH, 437 HOUSTON, MANHATAN, KS 66502	0	4,750
JEFFERSON COUNTY HSG AUTH, 801 VINE STREET, LOUISVILLE, KY 40204	0	1,750
COMMUNITY DEVELOPMENT AGENCY, 201 WEST WALNUT STREET, DANVILLE, KY 40422	0	1,500
KENTUCKY HSG CORPORATION, 1231 LOUISVILLE ROAD, FRANKFORT, KY 40601	0	15,250
EAST BATON ROUGE PARISH HA, 4731 NORTH BLVD, BATON ROUGE, LA 70806	0	9,000
FRANKLIN CITY REG HSG AUTH, P.O. BOX 30 80 CANAL ST, TURNERS FALLS, MA 01376	0	2,000
HSG AUTH OF BALTIMORE CITY, 417 EAST FAYETTE STREET, BALTIMORE, MD 21201	0	9,750
MONTGOMERY CO HSG AUTH, 10400 DETRICK AVENUE, KENSINGTON, MD 20895	0	68,750
HAGERSTOWN HSG AUTH, 35 WEST BALTIMORE STREET, HAGERSTOWN, MD 21740	0	23,750
ANNE ARUNDEL COUNTY HSG AUTH, 7885 GORDON COURT P.O. BOX 0817, GLEN BURNIE, MD 21060	0	51,500
WASHINGTON COUNTY HSG AUTH, P.O. BOX 2944, HAGERSTOWN, MD 21741	0	5,500
BALTIMORE CO. HOUSING OFFICE, ONE INVESTMENT PLACE, SUITE P3, TOWSON, MD 21204	0	9,000
BATTLE CREEK HSG COMM., 250 CHAMPION STREET, BATTLE CREEK, MI 49017	0	14,500
LIVONIA HSG COMMISSION, 19300 PURLINGBROOK ROAD, LIVONIA, MI 48152	0	3,500
LANSING HSG COMMISSION, 310 NORTH SEYMOUR STREET, LANSING, MI 48933	0	7,000
KENT COUNTY HSG COMMISSION, 741 EAST BELTLINE AVE. NE, GRAND RAPIDS, MI 49525	0	8,500
MICHIGAN STATE HSG DEV AUTH, P.O. BOX 30044, LANSING, MI 48909	0	106,000
MICHIGAN STATE HSG DEV AUTH, P.O. BOX 30044, LANSING, MI 48909	0	11,750
WORTHINGTON HRA, 819 TENTH STREET, WORTHINGTON, MN 56187	0	4,000
DAKOTA COUNTY CDA, 2496 145TH ST. WEST, ROSEMOUNT, MN 55068	0	8,250
OLMSTED COUNTY HRA, 2122 CAMPUS DRIVE SE, ROCHESTER, MN 55904	0	7,750
METROPOLITAN COUNCIL HRA, MEARS PARK CENTRE 230 E. FIFTH STREET, ST. PAUL, MN 55101	0	3,500
OWATONNA HRA, 540 WEST HILLS CIRCLE, OWATONNA, MN 55060	0	1,000
HSG AUTH OF KANSAS CITY, 301 EASTARMOUR BLVD, KANSAS CITY, MO 64111	0	62,500
LEES SUMMIT HSG AUTH, 111 SOUTH GRAND, LEES SUMMIT, MO 64063	0	4,000
SPRINGFIELD HSG AUTH, 421 WEST MADISON, SPRINGFIELD, MO 65806	0	20,750
LINCOLN COUNTY PUB HSG AGENCY, 16 NORTH COURT, BOWLING GREEN, MO 63334	0	3,000
ST. FRANCOIS COUNTY PH AGENCY, P.O. BOX N, FLAT RIVER, MO 63601	0	8,500
MISS REGIONAL HSG AUTH VIII, P.O. BOX 2347, GULFPORT, MS 39505	0	9,750
MDOC, POB 200545 836 FRONT STREET, HELENA, MT 59620	0	2,750
RALEIGH HSG AUTH, P.O. BOX 28007, RALEIGH, NC 27611	0	11,000
HSG AUTH OF CHARLOTTE, P.O. BOX 36795, 1301 SOUTH BOULEVARD, CHARLOTTE, NC 28236	0	0
HSG AUGH OF WINSTON-SALEM, 901 CLEVELAND AVENUE, WINSTON-SALEM, NC 27101	0	750
GASTONIA HSG AUTH, 340 W LONG AVENUE P.O. BOX 2398, GASTONIA, NC 28053	0	20,250
NORTHWEST PIEDMONT CO OF GOV, 400 W 4TH STREET, SUITE 400, WINSTON-SALEM, NC 27101	0	2,500
MORTON COUNTY HSG AUTH, P.O. BOX 517, MANDAN, ND 58554	0	3,500
RAMSEY COUNTY HSG AUTH, BOX 691, DEVILS LAKE, ND 58301	0	10,000
BURLEIGH COUNTY HSG AUTH, 410 SOUTH 2ND STREET, BISMARCK, ND 58504	0	23,750
RANSOM COUNTY HSG AUTH, P.O. BOX 299, ASHLEY, ND 58413	0	3,750
NASHUA HSG AUTH, 101 MAJOR DRIVE, NASHUA, NH 03060	0	17,000
DOVER HSG AUTH, 62 WHITTIER STREET, DOVER, NH 03820	0	7,250
ROCHESTER HSG AUTH, WELLSWEEP ACRES, ROCHESTER, NH 03867	0	7,500
NEW JERSEY DCA, 101 SOUTH BROAD STREET, P.O. BOX 051, TRENTON, NJ 08625	0	500
CITY OF RENO HSG AUTH, 1525 EAST NINTH ST, RENO, NV 89512	0	4,500
COUNTY OF CLARK HSG AUTH, 5390 EAST FLAMINGO ROAD, LAS VEGAS, NV 89122	0	7,250
NEW YORK CITY HSG AUTH, 250 BROADWAY, NEW YORK, NY 10007	0	94,500

APPENDIX A.—SECTION 8 RENTAL ASSISTANCE PROGRAMS ANNOUNCEMENT OF AWARDS FOR FISCAL YEAR 2001—Continued

Housing agency and address	Units	Award
CITY OF NEW YORK DHPD, 100 GOLD STREET ROOM 5N, NEW YORK, NY 10038	0	92,750
NEW YORK STATE HSG FIN AGENCY, 25 BEAVER STREET, RM 674, NEW YORK, NY 10004	0	4,750
CUYAHOGA METRO HSG AUTH, 1441 WEST 25TH STREET, CLEVELAND, OH 44113	0	15,750
CINCINNATI METRO HSG AUTH, 16 WEST CENTRAL PARKWAY, CINCINNATI, OH 45210	0	246,500
DAYTON METRO HSG AUTH, 400 WAYNE AVE, POST OFFICE BOX 8750, DAYTON, OH 45401	0	12,250
LUCAS METRO HSG AUTH, P.O. BOX 477 435 NEBRASKA AVENUE, TOLEDO, OH 43602	0	2,750
ZANESVILLE METRO HSG AUTH, 407 PERSHING ROAD, ZANESVILLE, OH 43701	0	19,000
LORAIN METRO HSG AUTH, 1600 KANSAS AVENUE, LORAIN, OH 44052	0	25,250
STARK METRO HSG AUTH, 400 EAST TUSCARAWAS STREET, CANTON, OH 44702	0	11,750
PORTAGE METRO HSG AUTH, 2832 STATE ROUTE 59, RAVENNA, OH 44266	0	3,500
HAMILTON COUNTY PUB HSG AUTH, 138 EAST COURT STREET, ROOM 507, CINCINNATI, OH 45202	0	84,000
KNOX METRO HSG AUTH, 117 EAST HIGH STREET, 3RD FLOOR, MOUNT VERNON, OH 43050	0	23,750
FAIRFIELD METRO HSG AUTH, 1506 AMHERST PL, LANCASTER, OH 43130	0	9,750
OKLAHOMA CITY HSG AUTH, 1700 NE FOURTH STREET, OKLAHOMA CITY, OK 73117	0	31,000
HSG AUTH OF PORTLAND, 135 SW ASH STREET, PORTLAND, OR 97204	0	9,000
HSG AUTH OF MALHEUR COUNTY, 959 FORTNER ST, ONTARIO, OR 97914	0	1,250
PHILADELPHIA HSG AUTH, 12 SOUTH 23RD STREET, PHILADELPHIA, PA 19103	0	31,500
ALLEGHENY COUNTY HSG AUTH, 341–4TH AVENUE, PITTSBURGH, PA 15222	0	6,750
LEBANON COUNTY HSG AUTH, 303 CHESTNUT STREET, LEBANON, PA 17042	0	23,250
WOONSOCKET HSG AUTH, 679 SOCIAL ST, WOONSOCKET, RI 02895	0	58,500
CENTRAL FALLS HSG AUTH, 30 WASHINGTON ST, CENTRAL FALLS, RI 02863	0	42,250
PUERTO RICO HSG FINANCE CORP, CALL BOX 71361–GPO, SAN JUAN, PR 00936	0	90,000
HSG AUTH OF AIKEN, P.O. BOX 889, AIKEN, SC 29802	0	6,500
HSG AUTH OF GREENWOOD, P.O. BOX 973, GREENWOOD, SC 29648	0	4,500
CHATTANOOGA HSG AUTH, P.O. BOX 1486, CHATTANOOGA, TN 37402	0	28,500
HSG AUTH OF DICKSON, 333 MARTIN L. KING JR. BLVD., DICKSON, TN 37055	0	10,250
TENNESSEE HSG DEV AGENCY, 404 J. ROBERTSON PKWY, STE 1114, NASHVILLE-DAVIDSON, TN 37243	0	5,750
AUSTIN HSG AUTH, P.O. BOX 6159, AUSTIN, TX 78762	0	69,500
EL PASO HSG AUTH, 5300 E PAISONA, EL PASO, TX 79905	0	6,750
FORT WORTH HSG AUTH, P.O. BOX 430, 1201 E. 13TH ST., FORTH WORTH, TX 76101	0	17,000
WACO HSG AUTH, P.O. BOX 978, 1001 WASHINGTON, WACO, TX 76703	0	56,000
LAREDO HSG AUTH, 2000 SAN FRANCISCO AVENUE, LAREDO, TX 78040	0	25,500
TEXAS CITY HSG AUTH, 817 SECOND AVENUE NORTH, TEXAS CITY, TX 77590	0	7,500
PLANO HSG AUTH, 1111 AVENUE H, BLDG. A, PLANO, TX 75074	0	11,000
ARKANSAS PASS HSG AUTH, 254 N 13TH STREET, ARKANSAS PASS, TX 78336	0	10,000
ARLINGTON HSG AUTH, 501 W. SANFORD, SUITE 20, ARLINGTON, TX 76011	0	42,750
GRAND PRAIRIE HSG AUTH, 201 NW. 2ND ST, STE 150, GRAND PRAIRIE, TX 75053	0	40,750
GARLAND HSG AUTH, 210 CARVER STREET, STE 201B, GARLAND, TX 75046	0	3,000
MESQUITE HSG AUTH, 1515 N. GALLOWAY, P.O. BOX 850137, MESQUITE, TX 75185	0	7,500
WICHITA FALLS HAP, P.O. BOX 1431, 1300 SEVENTH ST., WICHITA FALLS, TX 76307	0	44,750
BRAZOS VALLEY DEV COUNCIL, PO DRAWER 4128, BRYAN, TX 77805	0	6,000
DAVIS COUNTY HSG AUTH, P.O. BOX 328, FARMINGTON, UT 84025	0	500
PORTSMOUTH REDEV AND HSG AUTH, P.O. BOX 1098, 339 HIGH STREET, PORTSMOUTH, VA 23705	0	31,000
FAIRFAX CO REDEV AND HSG AUTH, 3700 PENDER DRIVE, SUITE 300, FAIRFAX, VA 22030	0	7,250
PETERSBURG REDEV AND HSG AUTH, 128 S. SYCAMORE STREET, PETERSBURG, VA 23804	0	21,000
MARION REDEV AND HSG AUTH, 237 MILLER AVE, MARION, VA 24354	0	28,250
CITY OF VIRGINIA BEACH HSG AUTH, MUNICIPAL CENTER, VIRGINIA BEACH, VA 23456	0	28,500
VIRGINIA HSG DEV AUTH, 601 SOUTH BELVEDERE STREET, RICHMOND, VA 23220	0	65,500
HSG AUTH OF CITY OF SEATTLE, 120 SIXTH AVENUE NORTH, SEATTLE, WA 98109	0	15,500
HSG AUTH OF COUNTY OF KING, 600 ANDOVER PARK WEST, TUKWILA, WA 98188	0	15,250
HSG AUTH OF THURSTON COUNTY, 505 WEST FOURTH AVENUE, OLYMPIA, WA 98501	0	5,000
PIERCE COUNTY HSG AUTH, 603 S POLK, P.O. BOX 45410, TACOMA, WA 98445	0	6,250
HSG AUTH OF CITY OF SPOKANE, WEST 55 MISSION ST, SUITE 104, SPOKANE, WA 99201	0	2,500
HSG AUTH OF CITY OF MILWAUKEE, P.O. BOX 324, MILWAUKEE, WI 53201	0	77,000
WAUSAU CDA, 550 EAST THOMAS STREET, WAUSAU, WI 54403	0	14,500
WISCONSIN RAPIDS HSG AUTH, 2521 TENTH STREET SOUTH, WISCONSIN RAPIDS, WI 54494	0	6,250
DODGE COUNTY HSG AUTH, 419 E CENTER ST, JUNEAU, WI 53039	0	10,000
PORTAGE COUNTY HSG AUTH, 1100 CENTERPOINT DR, SUITE 201–B, STEVENS POINT, WI 54481	0	10,500
MARINETTE COUNTY HSG AUTH, 926 MAIN STREET, P.O. BOX 438, WAUSAUKEE, WI 54177	0	7,750
Total for Termination/Opt-out/Property Disposition Fees	0	3,525,000
TERMINATIONS/OPT-OUTS		
MOBILE HOUSING BOARD, P.O. BOX 134, MOBILE, AL 36633	30	133,560
DOTHAN HSG AUTH, P.O. BOX 1727, DOTHAN, AL 36302	0	15,695
HSG AUTH OF HUNTSVILLE, P.O. BOX 486, HUNTSVILLE, AL 35804	76	318,840
HSG AUTH OF DECATUR, P.O. BOX 878, DECATUR, AL 35602	136	535,296
HSG AUTH OF OZARK, P.O. BOX 566, OZARK, AL 36361	50	168,600
HSG AUTH OF PRICHARD, P.O. BOX 10307, PRICHARD, AL 36610	99	458,568

APPENDIX A.—SECTION 8 RENTAL ASSISTANCE PROGRAMS ANNOUNCEMENT OF AWARDS FOR FISCAL YEAR 2001—Continued

Housing agency and address	Units	Award
HSG AUTH OF CITY OF LITTLE ROCK, 1000 WOLFE STREET, LITTLE ROCK, AR 72202	86	985,560
TUCSON HSG MANAGEMENT DIV, 1501 N. ORACLE ROAD, SUITE 115, P.O. BOX 27210, TUCSON, AZ 85726	95	516,420
TEMPLE HSG AUTH, 132 E. 6TH ST, SUITE 201, P.O. BOX 5002, TEMPE, AZ 85280	36	206,928
LOS ANGELES COUNTY HSG AUTH, 2 CORAL CIRCLE, MONTEREY PARK, CA 91755	86	582,552
CITY OF LOS ANGELES HSG AUTH, 2600 WILSHIRE BLVD, 3RD FLOOR, LOS ANGELES, CA 90057	99	708,024
SACRAMENTO HSG & REDEV AUTH, P.O. BOX 1834, SACRAMENTO, CA 95812	125	642,288
CITY OF FRESNO HSG AUTH, 1331 FULTON MALL, FRESNO, CA 93776	87	422,820
SACRAMENTO HSG & REDEV AUTH, P.O. BOX 1834, SACRAMENTO, CA 95812	270	1,514,004
COUNTY OF CONTRA COSTA HSG AUTH, 3133 ESTUDILLO ST, P.O. BOX 2759, MARTINEZ, CA 94533	100	832,800
COUNTY OF STANISLAUS HSG AUTH, 1701 ROBERTSON ROAD, MODESTO, CA 95351	44	209,616
COUNTY OF BUTTE HSG AUTH, 580 VALLOMBROSA AVE, CHICO, CA 95926	20	78,480
YOLO COUNTY HSG AUTH, P.O. BOX 1867, WOODLAND, CA 95776	52	267,072
COUNTY OF SUTTER HSG AUTH, 448 GARDEN HIGHWAY, P.O. BOX 631, YUBA CITY, CA 95992	24	88,128
SAN JOSE HOUSING AUTHORITY, 505 WEST JULIAN STREET, SAN JOSE, CA 95110	79	857,940
CITY OF FAIRFIELD HSG AUTH, 823–B JEFFERSON STREET, FAIRFIELD, CA 94533	26	166,296
SANTA CRUZ COUNTY HSG AUTH, 2160-41ST AVE, CAPITOLA, CA 95010	110	1,036,200
H.A. OF THE CITY OF LIVERMORE, 3203 LEAHY WAY, LIVERMORE, CA 94550	125	407,772
COUNTY OF SONOMA HSG AUTH, 1440 GUERNEVILLE ROAD, SANTA ROSA, CA 95403	63	464,940
CITY OF SANTA ROSA HSG AUTH, 90 SANTA ROSA AVE., P.O. BOX 1806, SANTA ROSA, CA 95402	47	338,964
PICO RIVERA HSG AUTH, 6615 S. PASSONS BLVD, PICO RIVERA, CA 90660	6	48,672
CITY OF VACAVILLE HSG AUTH, 40 ELDRIDGE AVENUE, SUITES 1–5, VACAVILLE, CA 95687	28	171,696
DENVER HSG AUTH, 777 GRANT STREET, DENVER, CO 80203	42	331,632
PUEBLO HSG AUTH, 1414 NO. SANTA FE AVENUE, PUEBLO, CO 81003	6	31,752
LAKEWOOD HSG AUTH, 445 S. ALLISON PARKWAY, LAKEWOOD, CO 80226	60	395,280
GRAND JUNCTION HSG AUTH, 1011 NORTH TENTH STREET, GRAND JUNCTION, CO 81501	36	175,824
TORRINGTON HSG AUTH, 110 PROSPECT STREET, TORRINGTON, CT 06790	7	35,784
DC HSG AUTH, 1133 NORTH CAPITOL STREET NE, WASHINGTON, DC 20002	33	274,428
ORANGE CO SECTION 8, 525 EAST SOUTH STREET, ORLANDO, FL 32801	20	117,600
HSG AUTH OF SAVANNAH, P.O. BOX 1179, SAVANNAH, GA 31402	19	90,060
COLLEGE PARK HSG AUTH, 1908 WEST PRINCETON AVENUE, COLLEGE PARK, GA 30337	68	530,400
HSG AUTH OF DEKALB COUNTY, P.O. BOX 1627, DECATUR, GA 30031	40	264,480
HSG AUTH OF FULTON COUNTY, 10 PARK PLACE SE, SITE 550, ATLANTA, GA 30303	6	34,128
DCA, 60 EXECUTIVE PARK SOUTH, NE SUITE 250, ATLANTA, GA 30329	48	225,360
CITY AND COUNTY OF HONOLULU, 715 SOUTH KING ST., SUITE 311, HONOLULU, HI 96813	28	227,808
MUSCATINE HSG AUTH, CITY HALL, 215 SYCAMORE, MUSCATINE, IA 52761	48	150,912
GRINNELL LOW RENT HSG AUTH, 927 4TH AVENUE, GRINNELL, IA 50112	56	158,592
DUBUQUE DEPT OF HUMAN RIGHTS, 1805 CENTRAL AVENUE, DUBUQUE, IA 52001	12	40,320
CITY OF AMES DEPT. OF PLANNING, 515 CLARK AVENUE, AMES, IA 50010	43	178,020
OSKALOOSA MUNICIPAL PHA, 220 SOUTH MARKET, OSKALOSSA, IA 52577	44	117,744
CITY OF MASON HSG AUTH, 10–IST STREET NW., MASON CITY, IA 50401	48	140,544
REGIONAL HSG AUTH—VOUCHER XI, 108 WEST 6TH ST, P.O. BOX 663, CARROLL, IA 51401	20	54,960
NORTH IOWA REG HSG AUTH, 217 2ND STREET SW, MASON CITY, IA 50401	24	73,152
SOUTHEAST IOWA REG HSG AUTH, 214 N. 4TH P.O. BOX 397, BURLINGTON, IA 52601	24	72,576
UPPER EXPLORERLAND REG HSG AUTH, 134 W. GREENE ST, POSTVILLE, IA 52162	73	211,968
CENTRAL IOWA REG HSG AUTH, 950 OFFICE PARK ROAD, STE 321, WEST DES MOINES, IA 50265	108	395,280
MID IOWA REGIONAL HSG AUTH, 1814 CENTRAL AVENUE, FORT DODGE, IA 50501	42	112,896
SIOUXLAND REGIONAL HISG AUTH, 314 COMMERCE BLDG, SIOUX CITY, IA 51101	48	123,264
IDAHO HSG & FINANCE ASSN, 565 W MYRTLE STREET, P.O. BOX 7899, BOISE, ID 83707	48	204,096
CHICAGO HSG AUTH, 626 WEST JACKSON BLVD, CHICAGO, IL 60661	496	3,767,400
PEORIA HSG AUTH, 100 SOUTH SHERIDAN ROAD, PEORIA, IL 61605	48	240,192
HSG AUTH OF COOK COUNTY, 310 SOUTH MICHIGAN AVENUE, 15TH FL, CHICAGO, IL 60604	54	262,440
HSG AUTH OF COUNTY OF LAKE, 33928 N ROUTE 45, GRAYSLAKE, IL 60030	20	146,640
FORT WAYNE HSG AUTH, P.O. BOX 13489, FORT WAYNE, IN 46869	94	429,768
HSG AUTH OF CITY OF EVANSVILE, P.O. BOX 3605, 500 COURT STREET, EVANSVILLE, IN 47735	204	810,288
INDIANAPOLIS HOUSING AGENCY, 1919 N. MERIDIAN STREET, INDIANAPOLIS, IN 46202	373	1,591,536
ELKHART HSG AUTH, 1396 BENHAM AVE, ELKHART, IN 46516	74	258,289
ELWOOD HSG AUTH, 1602 SOUTH "A" STREET, ELWOOD, IN 46036	50	214,200
LOGANSPORT HSG AUTH, 417 NORTH STREET SUITE 102, LOGANSPORT, IN 46947	48	194,688
INDIANA DEPT OF HUMAN SERVICES, P.O. BOX 6116, INDIANAPOLIS, IN 46206	146	574,620
TOPEKA HSG AUTH, 2010 SE CALIFORNIA AVE, TOPEKA, KS 66607	24	107,712
DODGE CITY HSG AUTH, 407 EAST BEND, DODGE CITY, KS 67801	22	94,824
FORD COUNTY HSG AUTH, P.O. BOX 1636, DODGE CITY, KS 67801	20	64,080
RILEY COUNTY HSG AUTH, 437 HOUSTON, MANHATTAN, KS 66502	24	95,904,
JEFFERSON COUNTY HSG AUTH, 801 VINE STREET, LOUISVILLE, KY 40204	7	30,660
COMMUNITY DEVELOPMENT AGENCY, 201 WEST WALNUT STREET, DANVILLE, KY 40422	6	19,512
KENTUCKY HSG CORPORATION, 1231 LOUISVILLE ROAD, FRANKFROT, KY 40601	12	46,224
EAST BATON ROUGE PARISH HA, 4731 NORTH BLVD, BATON ROUGE, LA 70806	41	207,132
FRANKLIN CTY REG HSG AUTH, P.O. BOX 30 80 CANAL ST, TURNERS FALS, MA 01376	8	44,544
HSG AUTH OF BALTIMORE CITY, 417 EAST FAYETTE STREET, BALTIMORE, MD 21201	61	322,896

APPENDIX A.—SECTION 8 RENTAL ASSISTANCE PROGRAMS ANNOUNCEMENT OF AWARDS FOR FISCAL YEAR 2001—Continued

Housing agency and address	Units	Award
MONTGOMERY CO HSG AUTH, 10400 DETRICK AVENUE, KENSINGTON, MD 20895	279	2,556,396
HAGERSTOWN HSG AUTH, 35 WEST BALTIMORE STREET, HAGERSTOWN, MD 21740	95	381,900
ANNE ARUNDEL COUNTY HSG AUTH, 7885 GORDON COURT P.O. BOX 0817, GLEN BURNIE, MD 21060	206	1,278,024
WASHINGTON COUNTY HSG AUTH, P.O. BOX 2944, HAGERSTOWN, MD 21741	22	90,288
BALTIMORE CO. HSG OFFICE, ONE INVESTMENT PLACE SUITE P3, TOWSON, MD 21204	37	194,472
BATTLE CREEK HSG. COMM., 250 CHAMPION STREET, BATTLE CREEK, MI 49017	58	193,728
LIVONIA HSG COMMISSION, 19300 PURLINGBROOK ROAD, LIVONIA, MI 48152	16	105,600
LANSING HSG COMMISION, 310 NORTH SEYMOUR STREET, LANSING, MI 48933	28	134,400
ANN ARBOR HSG COMMISSION, 727 MILLER AVENUE, ANN ARBOR, MI 48103	0	0
KENT COUNTY HSG COMMISSION, 741 EAST BELTLINE AVE. NE, GRAND RAPIDS, MI 49525	34	199,920
MICHIGAN STATE HSG DEV AUTH, P.O. BOX 30044, LANSING, MI 48909	269	1,352,316
MICHIGAN STATE HSG DEV AUTH, P.O. BOX 30044, LANSING, MI 48909	41	163,344
DAKOTA COUNTY CDA, 2496 145TH ST. WEST, ROSEMOUNT, MN 55068	33	183,744
OLMSTED COUNTY HRA, 2122 CAMPUS DRIVE SE, ROCHESTER, MN 55904	32	138,240
OWATONNA HRA, 540 WEST HILLS CIRCLE, OWATONNA, MN 55060	4	14,160
HSG AUTH OF KANSAS CITY, 301 EASTARMOUR BLVD, KANSAS CITY, MN 64111	145	713,580
LEES SUMMIT HSG AUTH, 111 SOUTH GRAND, LEES SUMMIT, MO 64063	17	85,272
SPRINGFIELD HSG AUTH, 421 WEST MADISON, SPRINGFILED, MO 65806	2	6,072
LINCOLN COUNTY PUB HSG AGENCY, 16 NORTH COURT, BOWLING GREEN, MO 63334	12	51,120
ST. FRANCOIS COUNTY PH AGENCY, P.O. BOX N, FLAT RIVER, MO 63601	50	168,600
MISS REGIONAL HSG AUTH VIII, P.O. BOX 2347, GULFPORT, MS 39505	40	149,280
MDOC, POB 200545, 836 FRONT STREET, HELENA, MT 59620	12	47,520
RALEIGH HSG AUTH, P.O. BOX 28007, RALEIGH, NC 27611	50	291,600
HSG AUTH OF WINSTON-SALEM, 901 CLEVELAND AVENUE, WINSTON-SALEM, NC 27101	10	52,200
NORTHWEST PIEDMONT CO OF GOV, 400 W 4TH STREET, SUITE 400, WINSTON-SALEM, NC 27101	10	40,200
MORTON COUNTY HSG AUTH, P.O. BOX 517, MANDAN, ND 58554	24	84,672
BURLEIGH COUNTY HSG AUTH, 410 SOUTH 2ND STREET, BISMARCK, ND 58504	95	367,080
RANSOM COUNTY HSG AUTH, P.O. BOX 299, ASHLEY, ND 58413	15	28,440
NASHUA HSG AUTH, 101 MAJOR DRIVE, NASHUA, NH 03060	69	454,572
DOVER HSG AUTH, 62 WHITTIER STREET, DOVER, NH 03820	32	185,844
ROCHESTER HSG AUTH, WELLSWEEP ACRES, ROCHESTER, NH 03867	30	191,160
NEW JERSEY DCA, 101 SOUTH BROAD STREET, P.O. BOX 051, TRENTON, NJ 08625	4	30,912
CITY OF RENO HSG AUTH, 1525 EAST NINTH ST, RENO, NV 89512	18	96,336
COUNTY OF CLARK HSG AUTH, 5390 EAST FLAMINGO ROAD, LAS VEGAS, NV 89122	29	172,260
NEW YORK CITY HSG AUTH, 250 BROADWAY, NEW YORK, NY 10007	378	2,748,816
CITY OF NEW YORK DHPD, 100 GOLD STREET ROOM 5N, NEW YORK, NY 10038	371	2,372,916
NEW YORK STATE HSG FIN AGENCY, 25 BEAVER STREET, RM 674, NEW YORK, NY 10004	19	138,168
CUYAHOGA METRO HSG AUTH, 1441 WEST 25TH STREET, CLEVELAND, OH 44113	80	430,044
CINCINNATI METRO HSG AUTH, 16 WEST CENTRAL PARKWAY, CINCINNATI, OH 45210	1,089	5,057,316
DAYTON METROL HSG AUTH, 400 WAYNE AVE POST OFFICE BOX 8750, DAYTON, OH 45401	107	487,920
LUCAS METRO HSG AUTH, P.O. BOX 477 435 NEBRASKA AVENUE, TOLEDO, OH 43602	12	56,160
ZANESVILLE METRO HSG AUTH, 407 PERSHING ROAD, ZANESVILLE, OH 43701	76	260,832
LORAIN METRO HSG AUTH, 1600 KANSAS AVENUE, LORAIN, OH 44052	105	524,160
STARK METRO HSG AUTH, 400 EAST TUSCARAWAS STREET, CANTON, OH 44702	56	209,664
PORTAGE METRO HSG AUTH, 2832 STATE ROUTE 59, RAVENNA, OH 44266	14	70,896
HAMILTON COUNTY PUB HSG AUTH, 138 EAST COURT STREET, ROOM 507, CINCINNATI, OH 45202	361	1,847,268
KNOX METROPO HSG AUTH, 117 EAST HIGH STREET, 3RD FL, MOUNT VERNON, OH 43050	102	340,272
FAIRFIELD METRO HSG AUTH, 1506 AMHERST PL, LANCASTER, OH 43130	40	165,600
OKLAHOMA CITY HSG AUTH, 1700 N E FOURTH STREET, OKLAHOMA CITY, OK 73117	124	559,488
HSG AUTH OF PORTLAND, 135 SW ASH STREET, PORTLAND, OR 97204	39	224,640
HSG AUTH OF MALHEUR COUNTY, 959 FORTNER ST, ONTARIO, OR 97914	8	35,040
PHILADELPHIA HSG AUTH, 12 SOUTH 23RD STREET, PHILADELPHIA, PA 19103	126	901,152
ALLEGHENY COUNTY HSG AUTH, 341–4TH AVENUE, PITTSBURGH, PA 15222	32	138,240
LEBANON COUNTY HSG AUTH, 303 CHESTNUT STREET, LEBANON, PA 17042	93	369,396
WOONSOCKET HSG AUTH, 679 SOCIAL ST, WOONSOCKET, RI 02895	251	1,298,136
CENTRAL FALLS HSG AUTH, 30 WASHINGTON ST, CENTRAL FALLS, RI 02863	175	917,700
PUERTO RICO HSG FINANCE CO, CALL BOX 71361–GPO, SAN JUAN, PR 00936	382	1,829,604
HSG AUTH OF AIKEN, P.O. BOX 889, AIKEN, SC 29802	26	125,112
HSG AUTH OF GREENWOOD, P.O. BOX 973, GREENWOOD, SC 29648	18	55,296
HSG AUTH OF DICKSON, 333 MARTIN L. KING JR. BLVD., DICKSON, TN 37055	60	263,520
TENNESSEE HSG DEV AGENCY, 404 J. ROBERTSON PKWY, STE 1114, NASHVILLE-DAVIDSON, TN 37243	24	98,784
AUSTIN HSG AUTH, P.O. BOX 6159, AUSTIN, TX 78762	299	2,103,396
EL PASO HSG AUTH, 5300 E PAISONA, EL PASO, TX 79905	27	136,080
FORT WORTH HSG AUTH, P.O. BOX 430, 1201 E 13TH ST., FORT WORTH, TX 76101	68	419,861
LAREDO HSG AUTH, 2000 SAN FRANCISCO AVENUE, LAREDO, TX 78040	104	495,456
TEXAS CITY HSG AUTH, 817 SECOND AVENUE NORTH, TEXAS CITY, TX 77590	31	183,768
PLANO HSG AUTH, 1111 AVENUE H, BLDG. A, PLANO, TX 75074	44	287,232
ARANSAS PASS HSG AUTH, 254 N 13TH STREET, ARANSAS PASS, TX 78336	40	157,920
ARLINGTON HSG AUTH, 501 W. SANFORD, SUITE 20, ARLINGTON, TX 76011	204	1,216,656

APPENDIX A.—SECTION 8 RENTAL ASSISTANCE PROGRAMS ANNOUNCEMENT OF AWARDS FOR FISCAL YEAR 2001—Continued

Housing agency and address	Units	Award
GRAND PRAIRIE HSG AUTH, 201 NW, 2ND ST, STE 150, GRAND PRAIRIE, TX 75053	170	981,240
GARLAND HSG AUTH, 210 CARVER STREET, STE 201B, GARLAND, TX 75046	40	291,840
MESQUITE HSG AUTH, 1515 N. GALLOWAY, P.O. BOX 850137, MESQUITE, TX 75185	32	182,016
WICHITA FALLS HAP, P.O. BOX 1431 SEVENTH ST., WICHITA FALLS, TX 76307	179	685,212
BRAZOS VALLEY DEV COUNCIL, P.O. DRAWER 4128, BRYAN, TX 77805	50	230,400
DAVIS COUNTY HSG AUTH, P.O. BOX 328, FARMINGTON, UT 84025	10	51,720
PORTSMOUTH REDEV AND HSG AUTH, P.O. BOX 1098, 339 HIGH STREET, PORTSMOUTH, VA 23705	160	768,000
FAIRFAX CO REDEV AND HSG AUTH, 3700 PENDER DRIVE, SUITE 300, FAIRFAX, VA 22030	30	240,120
PETERSBURG REDEV AND HSG AUTH, 128 S. SYCAMORE STREET, PETERSBURG, VA 23804	125	730,500
MARION REDEV AND HSG AUTH, 237 MILLER AVE, MARION, VA 24354	113	492,228
CITY OF VIRGINIA BEACH HSG AUTH, MUNICIPAL CENTER, VIRGINIA BEACH, VA 23456	152	720,480
VIRGINIA HSG DEVELOPMENT AUTH, 601 SOUTH BELVIDERE STREET, RICHMOND, VA 23220	264	1,235,520
HSG AUTH OF CITY OF SEATTLE, 120 SIXTH AVENUE NORTH, SEATTLE, WA 98109	62	304,200
HSG AUTH OF COUNTY OF KING, 600 ANDOVER PARK WEST, TUKWILA, WA 98188	62	461,472
HSG AUTH OF THURSTON COUNTY, 505 WEST FOURTH AVENUE, OLYMPIA, WA 98501	21	105,588
PIERCE COUNTY HSG AUTH, 603 S POLK, P.O. BOX 45410, TACOMA, WA 98445	25	132,300
HSG AUTH OF CITY OF SPOKANE, WEST 55 MISSION ST, SUITE 104, SPOKANE, WA 99201	10	41,520
HSG AUTH OF CITY OF MILWAUKEE, P.O. BOX 324, MILWAUKEE, WI 53201	236	1,008,048
WAUSAU CDA, 550 EAST THOMAS STREET, WAUSAU, WI 54403	58	153,816
WISCONSIN RAPIDS HSG AUTH, 2521 TENTH STREET SOUTH, WISCONSIN RAPIDS, WI 54494	10	27,480
DODGE COUNTY HSG AUTH, 419 E CENTER ST, JUNEAU, WI 53039	40	104,160
PORTAGE COUNTY HSG AUTH, 1100 CENTERPOINT DR, SUITE 201–B, STEVENS POINT, WI 54481	42	124,488
Total for Terminations/Opt-outs	13,576	72,272,249
Grand total	36,500	215,558,491

[FR Doc. 02–2179 Filed 1–29–02; 8:45 am]
BILLING CODE 4210–33–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

Endangered Species

The public is invited to comment on the following application(s) for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address below) and must be received within 30 days of the date of this notice.

Applicant: Zoological Society of San Diego, Escondido, CA, PRT–042686.

The applicant requests a permit to acquire through interstate commerce a male captive born Andean condor (*Vultur gryphus*) from Jacksonville Zoo, Jacksonville, Florida, and to export said animal and one captive born female Andean condor to Mountain View Farms, British Columbia, Canada, for the purpose of enhancement of the propagation of the species.

The U.S. Fish and Wildlife Service has information collection approval from OMB through March 31, 2004, OMB Control Number 1018–0093. Federal Agencies may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a current valid OMB control number.

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203, telephone 703/358–2104 or fax 703/358–2281.

Dated: January 18, 2002.

Monica Farris,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 02–2187 Filed 1–29–02; 8:45 am]
BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of a Permit Application (Kelsay) for Incidental Take of the Houston Toad

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: Douglas and Debra Kelsay (Applicants) have applied for an incidental take permit (TE–051535–0) pursuant to Section 10(a) of the Endangered Species Act (Act). The requested permit would authorize the incidental take of the endangered Houston toad. The proposed take would occur as a result of the construction and occupation of a single-family residence on approximately 0.5 acre of the 22.004-acre property on Hoffman Road, Bastrop County, Texas.

DATES: Written comments on the application should be received on or before March 1, 2002.

ADDRESSES: Persons wishing to review the application may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Room 4102, Albuquerque, New Mexico 87103. Persons wishing to review the EA/HCP may obtain a copy by contacting Clayton Napier, U.S. Fish and Wildlife Service, 10711 Burnet

Road, Suite 200, Austin, Texas 78758 (512/490–0057). Documents will be available for public inspection by written request, by appointment only, during normal business hours (8 to 4:30) at the U.S. Fish and Wildlife Service, Austin, Texas. Written data or comments concerning the application and EA/HCP should be submitted to the Supervisor, U.S. Fish and Wildlife Service, Austin, Texas, at the above address. Please refer to permit number TE–051535–0 when submitting comments.

FOR FURTHER INFORMATION CONTACT: Clayton Napier at the above U.S. Fish and Wildlife Service, Austin Office.

SUPPLEMENTARY INFORMATION: Section 9 of the Act prohibits the ''taking'' of endangered species such as the Houston toad. However, the Fish and Wildlife Service (Service), under limited circumstances, may issue permits to take endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

The Service has prepared the Environmental Assessment/Habitat Conservation Plan (EA/HCP) for the incidental take application. A determination of jeopardy to the species or a Finding of No Significant Impact (FONSI) will not be made until at least 30 days from the date of publication of this notice. This notice is provided pursuant to Section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

Applicants: Douglas and Debra Kelsay plan to construct a single-family residence, within 5 years, on approximately 0.5 acre of the 22.004-acre property on Hoffman Road, Bastrop County, Texas. This action will eliminate 0.5 acre or less of Houston toad habitat and result in indirect impacts within the lot. The Applicants propose to compensate for this incidental take of the Houston toad by providing $2,000.00 to the Houston Toad Conservation Fund at the National Fish and Wildlife Foundation for the specific purpose of land acquisition and management within Houston toad habitat.

Stuart Leon,

Acting Regional Director, Region 2.

[FR Doc. 02–2196 Filed 1–29–02; 8:45 am]

BILLING CODE 4510–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of a Permit Application (Herden) for Incidental Take of the Houston Toad

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: Jerry Herden (Applicant) has applied for an incidental take permit (TE–051536–0) pursuant to section 10(a) of the Endangered Species Act (Act). The requested permit would authorize the incidental take of the endangered Houston toad. The proposed take would occur as a result of the construction and occupation of a single-family residence on approximately 0.5 acres of a 15.031-acre property on Gotier Trace Road, Bastrop County, Texas.

DATES: Written comments on the application should be received on or before March 1, 2002.

ADDRESSES: Persons wishing to review the application may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Room 4102, Albuquerque, New Mexico 87103. Persons wishing to review the EA/HCP may obtain a copy by contacting Clayton Napier, U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, Texas 78758 (512/490–0057). Documents will be available for public inspection by written request, by appointment only, during normal business hours (8 to 4:30) at the U.S. Fish and Wildlife Service, Austin, Texas. Written data or comments concerning the application and EA/HCP should be submitted to the Supervisor, U.S. Fish and Wildlife Service, Austin, Texas, at the above address. Please refer to permit number TE–051536–0 when submitting comments.

FOR FURTHER INFORMATION CONTACT: Clayton Napier at the above U.S. Fish and Wildlife Service, Austin Office.

SUPPLEMENTARY INFORMATION: Section 9 of the Act prohibits the ''taking'' of endangered species such as the Houston toad. However, the Fish and Wildlife Service (Service), under limited circumstances, may issue permits to take endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

An Environmental Assessment/Habitat Conservation Plan (EA/HCP) for the incidental take application has been prepared. A determination of jeopardy to the species or a Finding of No Significant Impact (FONSI) will not be made until at least 30 days from the date of publication of this notice. This notice is provided pursuant to section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

Applicant: Jerry Herden plans to construct a single-family residence, within 5 years, on approximately 0.5 acre of a 15.031-acre property on Gotier Trace Road, Bastrop County, Texas. This action will eliminate 0.5 acre or less of Houston toad habitat and result in indirect impacts within the lot. The Applicant proposes to compensate for this incidental take of the Houston toad by providing $3,000.00 to the Houston Toad Conservation Fund at the National Fish and Wildlife Foundation for the specific purpose of land acquisition and management within Houston toad habitat.

Stuart Leon,

Acting Regional Director, Region 2.

[FR Doc. 02–2197 Filed 1–29–02; 8:45 am]

BILLING CODE 4510–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of a Permit Application (Henneke) for Incidental Take of the Houston Toad

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: John Henneke (Applicant) has applied for an incidental take permit (TE–051538–0) pursuant to section 10(a) of the Endangered Species Act (Act). The requested permit would authorize the incidental take of the endangered Houston toad. The proposed take would occur as a result of the construction and occupation of a single-family residence on approximately 0.5 acres of a 77.44-acre property on Thames Lane, Bastrop County, Texas.

DATES: Written comments on the application should be received on or before March 7, 2002.

ADDRESSES: Persons wishing to review the application may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Room 4102, Albuquerque, New Mexico 87103. Persons wishing to review the EA/HCP may obtain a copy by contacting Clayton Napier, U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, Texas 78758 (512/490–0057). Documents will be available for public inspection by written request, by appointment only,

during normal business hours (8 to 4:30) at the U.S. Fish and Wildlife Service, Austin, Texas. Written data or comments concerning the application and EA/HCP should be submitted to the Supervisor, U.S. Fish and Wildlife Service, Austin, Texas, at the above address. Please refer to permit number TE–051538–0 when submitting comments.

FOR FURTHER INFORMATION CONTACT: Clayton Napier at the above U.S. Fish and Wildlife Service, Austin Office.

SUPPLEMENTARY INFORMATION: Section 9 of the Act prohibits the ''taking'' of endangered species such as the Houston toad. However, the Fish and Wildlife Service (Service), under limited circumstances, may issue permits to take endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

An Environmental Assessment/Habitat Conservation Plan (EA/HCP) for the incidental take application has been prepared. A determination of jeopardy to the species or a Finding of No Significant Impact (FONSI) will not be made until at least 30 days from the date of publication of this notice. This notice is provided pursuant to section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

Applicant: John Henneke plans to construct a single-family residence, within 5 years, on approximately 0.5 acres of a 77.44-acre property on Thames Lane, Bastrop County, Texas. This action will eliminate 0.5 acre or less of Houston toad habitat and result in indirect impacts within the lot. The Applicant proposes to compensate for this incidental take of the Houston toad by providing $2,000.00 to the Houston Toad Conservation Fund at the National Fish and Wildlife Foundation for the specific purpose of land acquisition and management within Houston toad habitat.

Stuart Leon,

Acting Regional Director, Region 2.

[FR Doc. 02–2199 Filed 1–29–02; 8:45 am]

BILLING CODE 4510–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of a Permit Application (Bigsby) for Incidental Take of the Houston Toad

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: Robert and Terri Bigsby (Applicants) have applied for an incidental take permit (TE–051530–0) pursuant to section 10(a) of the Endangered Species Act (Act). The requested permit would authorize the incidental take of the endangered Houston toad. The proposed take would occur as a result of the construction and occupation of two single-family residences on separate 0.5 acre homesites on a 5.7-acre property on Hoffman Road, Bastrop County, Texas.

DATES: Written comments on the application should be received on or before March 7, 2002.

ADDRESSES: Persons wishing to review the application may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Room 4102, Albuquerque, New Mexico 87103. Persons wishing to review the EA/HCP may obtain a copy by contacting Clayton Napier, U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, Texas 78758 (512/490–0057). Documents will be available for public inspection by written request, by appointment only, during normal business hours (8 to 4:30) at the U.S. Fish and Wildlife Service, Austin, Texas. Written data or comments concerning the application and EA/HCP should be submitted to the Supervisor, U.S. Fish and Wildlife Service, Austin, Texas, at the above address. Please refer to permit number TE–051530–0 when submitting comments.

FOR FURTHER INFORMATION CONTACT: Clayton Napier at the above U.S. Fish and Wildlife Service, Austin Office.

SUPPLEMENTARY INFORMATION: Section 9 of the Act prohibits the ''taking'' of endangered species such as the Houston toad. However, the Fish and Wildlife Service (Service), under limited circumstances, may issue permits to take endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

The Service has prepared the Environmental Assessment/Habitat Conservation Plan (EA/HCP) for the incidental take application. A determination of jeopardy to the species or a Finding of No Significant Impact (FONSI) will not be made until at least 30 days from the date of publication of this notice. This notice is provided pursuant to section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

Applicants: Robert and Terri Bigsby plan to construct two single-family residences, within 5 years, on separate 0.5 acre homesites on a 5.7-acre property on Hoffman Road, Bastrop County, Texas. This action will eliminate 1.0 acre or less of Houston toad habitat and result in indirect impacts within the lot. The Applicants propose to compensate for this incidental take of the Houston toad by providing $4,000.00 to the Houston Toad Conservation Fund at the National Fish and Wildlife Foundation for the specific purpose of land acquisition and management within Houston toad habitat.

Stuart Leon,

Acting Regional Director, Region 2.

[FR Doc. 02–2200 Filed 1–29–02; 8:45 am]

BILLING CODE 4510–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–050–02–5101–ER–F323; NVN66472, NVN73726, N–66150, N–61191]

Availability for the Table Mountain Wind Generating Facility

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability to (1) announce the 60 day public review period for the Table Mountain Wind Generating Facility (WGF) Draft Environmental Impact Statement (DEIS); (2) announce the locations, dates, and times of the scheduled public meetings for formal public comments; and (3) announce locations where reading copies of the DEIS will be made available.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, a DEIS has been prepared by the Bureau of Land Management (BLM), Las Vegas Field Office for the Table Mountain WGF. The DEIS was prepared to analyze the impacts of issuing rights-of-way for arrays of wind turbines and ancillary facilities located on public lands administered by the BLM.

DATES: The DEIS will be made available to the public on February 1, 2002. Copies of the DEIS will be mailed to individuals, agencies, or companies who previously requested copies.

Written comments on the DEIS must be postmarked or otherwise delivered by 4:30 p.m. 60 days following the date the Environmental Protection Agency (EPA) publishes the Notice of Availability and filing of the DEIS in the **Federal Register**. The EPA Notice of Availability is expected to be published on or about February 1, 2002. Written

comments on the document should be addressed to Mark Morse, Field Manager, Bureau of Land Management, Las Vegas Field Office, 4701 Torrey Pines Drive, Las Vegas, NV 89130–2301. Oral and/or written comments may also be presented at three scheduled public meetings to be held at the following locations:

- Tuesday, February 26, 2002 from 7 p.m. to 9 p.m.; Community Center, West Quartz Avenue, Sandy Valley, Nevada
- Wednesday, February 27, 2002 at 7 p.m. to 9 p.m.; Community Center, 375 West San Pedro Avenue, Goodspirngs, Nevada
- Thursday, February 28, 2002 at 7 p.m. to 9 p.m.; Clark County Government Center, Room QDC #3, 500 Grand Central Parkway, Las Vegas, Nevada

ADDRESSES: Public reading copies of the DEIS will be available for reading at public libraries located at the following addresses:

- 650 West Quartz Avenue, Sandy Valley, NV
- 365 West San Pedro, Goodsprings, NV
- 4280 South Jones Blvd., Las Vegas, NV

A limited number of copies of the document will be available at the following BLM offices:

- Bureau of Land Management, Nevada State Office, 1340 Financial Blvd., Reno, NV
- Bureau of Land Management, Las Vegas Field Office, 4701 Torrey Pines Drive, Las Vegas, NV

Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review or from disclosure under the Freedom of Information Act, you must state this definitively at the beginning of your written comments. Such requests will be honored to the extent allowed by law. All submissions from organizations, businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses will be available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Jerry Crockford, Project Manager, Bureau of Land Management, Las Vegas Field Office, 4701 Torrey Pines Drive, Las Vegas, NV 89130–2301. Bureau of Land Management, Farmington Field Office, 1235 La Plata Highway, Suite A, Farmington, NM 87401; telephone (505) 599–6333, cellular telephone (505) 486–4299, or electronic mail *jcrockfo@nm.blm.gov.*

SUPPLEMENTARY INFORMATION: The DEIS addresses alternatives to resolve the following major issues (revealed to date): Air quality, increased recreation, mining claims, birds and bats, big horn sheep, threatened or endangered species, cultural resources and traditional cultural properties, transportation, visual resources, noise, and socioeconomics.

The proposed action and alternatives can be summarized as: Proposed Action—Construct arrays containing a total of 153 wind turbine generators (WTGs) consisting of a combination of the two sizes of turbines identified in Alternatives A and B, and ancillary facilities; Alternative A—Construct arrays containing a total of 187 NEG Micon Model 900/52 WTGs and ancillary facilities; Alternative B—Construct arrays containing a total of 135 NEG Micon Model 1500 C WTGs and ancillary facilities; and Alternative C—No Action.

The proposed action is to construct, operate, and maintain a WGF producing 205-megawatts (MWs) and ancillary facilities on approximately 300 acres of public land within the Table Mountain WGF study area. The fully constructed WGF would consist of arrays containing a total of 153 WTGs. The WTGs installed would be a combination of the NEG Micon Model 900/52 (each producing 800 kilowatts) and NEG Micon 1500 C (each producing 1.5 MWs) turbines. Ancillary facilities consist of access roads, underground and overhead 34.5 kilovolt (kV) distribution lines, 230 kV electric transmission lines, an electric sub-station, a control building, and various temporary use areas. The WGF would operate 24 hours per day, 365 days a year, and produce in excess of 460 million kilowatt-hours annually. The anticipated life of the facility would be longer than 20 years. The rights-of way would be granted for 20 years with the right to renew.

Alternative A would essentially be the same as the Proposed Action but would consist of arrays containing a total of 187 NEG Micon Model 900/52 WTGs and ancillary facilities. Under Alternative A, there would be 22 percent more towers, turbines, and transformers. This would cause an increase in total of land disturbance as compared to the Proposed Action.

Alternative B would essentially be the same as the Proposed Action but would consist of arrays containing a total of 135 NEG Micon Model 1500 C WTGs and ancillary facilities. Under Alternative B, there would be 12 percent fewer towers, turbines, and transformers. This would cause a reduction in total acres of land disturbance as compared to the Proposed Action.

Under the No Action Alternative, BLM would not issue right-of-way grants for the WGF and ancillary facilities. The WTGs, access roads, underground and overhead 34.5 kV distribution lines, 230 kV electric transmission lines, electric sub-station, control building, and various temporary use areas would not be constructed/utilized. Wind resources at Table Mountain would remain undeveloped.

Public participation is occurring throughout the processing of this project. A Notice of Intent was filed in the **Federal Register** on December 29, 2000. Two rounds of public meetings consisting of three meetings each were held. Comments presented throughout the process have been considered.

Dated: January 24, 2002.

Charles F. Delcamp,

Acting Field Manager.

[FR Doc. 02–2195 Filed 1–29–02; 8:45 am]

BILLING CODE 4310–HC–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–267 (Review Remand) and 731–TA–304 (Review Remand)]

Top-of-the-Stove Stainless Steel Cooking Ware From Korea

Determinations of Remand

On March 17, 2000, the Commission determined that the revocation of the countervailing and antidumping duty orders on top-of-the-stove stainless steel cooking ware from Korea would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[1] Those determinations were appealed to the U.S. Court of International Trade.

On October 1, 2001, the Court affirmed the Commission's ''domestic like product'' determination and remanded the Commission's decision to cumulate subject imports from Korea and Taiwan.[2] On remand, the Commission again determines that revocation of the countervailing and antidumping duty orders on top-of-the-stove stainless steel cooking ware from

[1] Porcelain-on-Steel Cooking Ware from China, Mexico, and Taiwan, and Top-of-the-Stove Stainless Steel Cooking Ware from Korea and Taiwan, Invs. Nos. 701–TA–267and 268 (Review) and Invs. Nos. 731–TA–297–299, 304 and 305 (Review), USITC Pub. 3286 (March 2000).

[2] Chefline Corp. et al. v. United States, Court No. 00–05–00212, Slip Op. 01–118 (September 26, 2001).

Korea would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[3]

The Commission transmitted its remand determinations to U.S. Court of International Trade on January 25, 2002. The views of the Commission are contained in USITC Publication 3485 (January 2002), entitled Top-of-the-Stove Stainless Steel Cooking Ware from Korea (Views on Remand): Investigations Nos. 701–TA–267 and 731–TA–304 (Review) (Remand).

By order of the Commission.
Issued: January 24, 2002.

Marilyn R. Abbott,

Acting Secretary.

[FR Doc. 02–2185 Filed 1–29–02; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

January 15, 2002.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Marlene Howze at ((202) 219–8904 or Email *Howze-Marlene@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ESA, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register.**

The OMB is particularly interested in comments which:

* Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.

* Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

* Enhance the quality, utility, and clarity of the information to be collected; and minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Type of Review: Revision of a currently approved collection.

Agency: Employment Standards Administration (ESA).

Title: Report of Ventilatory Study (CM–907), Roentgenographic (CM–933), Roentgenographic Quality Rereading (CM–933b), Medical History and Examination for Coal Mine Workers' Pneumoconiosis (CM–988), Report of Arterial Blood Gas Study (CM–1159) and Report of Ventilatory Study (CM–2907).

OMB Number: 1215–0090.

Affected Public: Business or other for-profit and Not-for-profit institutions.

Frequency: On Occasion.

Responses and Estimated Burdens:

Form	Number of respondents	Annual responses	Per response (in minutes)	Total burden hours
CM–907	100	100	20	33
CM–933	6,000	6,000	5	500
CM–933b	5,000	5,000	5	417
CM–988	5,000	5,000	30	2,500
CM–1159	5,000	5,000	15	1,250
CM–2907	4,900	4,900	20	1,634
Totals	26,000	26,000	.....	6,334

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $7,418.25.

Description: 20 CFR 718 specifies that certain information relative to the medical condition of a claimant who is alleging the presence of pneumoconiosis be obtained as a routine function of the claim adjudication process. The medical specifications in the regulations have been formatted in a variety of forms to promote efficiency and accuracy in gathering the required data. These forms were designed to meet the need to establish medical evidence. If this information were not gathered, determinations on total disability could not be made.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 02–2234 Filed 1–29–02; 8:45 am]

BILLING CODE 4510–CK–M

LIBRARY OF CONGRESS

Copyright Office

[Docket No. 2002–1 CARP DTRA3]

Digital Performance Right in Sound Recordings and Ephemeral Recordings

AGENCY: Copyright Office, Library of Congress.

ACTION: Initiation of voluntary negotiation period.

SUMMARY: The Copyright Office is announcing the initiation of the voluntary negotiation period for determining reasonable rates and terms for two compulsory licenses, which in one case, allows public performances of sound recordings by means of eligible nonsubscription transmissions, and in the second instance, allows the making of an ephemeral phonorecord of a sound recording in furtherance of making a permitted public performance of the sound recording.

EFFECTIVE DATE: The voluntary negotiation period begins on January 30, 2002.

[3] Vice Chairman Deanna Tanner Okun and Commissioner Lynn M. Bragg dissenting.

ADDRESSES: Copies of voluntary license agreements and petitions, if sent by mail, should be addressed to: Copyright Arbitration Royalty Panel (CARP), P.O. Box 70977, Southwest Station, Washington, DC 20024. If hand delivered, they should be brought to: Office of the General Counsel, James Madison Memorial Building, Room LM–403, First and Independence Avenue, SE, Washington, DC 20559–6000.

FOR FURTHER INFORMATION CONTACT: David O. Carson, General Counsel, or Tanya M. Sandros, Senior Attorney, Copyright Arbitration Royalty Panel, P.O. Box 70977, Southwest Station, Washington, DC 20024. Telephone: (202) 707–8380. Telefax: (202) 252–3423.

SUPPLEMENTARY INFORMATION: In 1995, Congress enacted the Digital Performance Right in Sound Recordings Act of 1995 (''DPRA''), Pub. L. 104–39, which created an exclusive right for copyright owners of sound recordings, subject to certain limitations, to perform publicly the sound recordings by means of certain digital audio transmissions. Among the limitations on the performance right was the creation of a new compulsory license for nonexempt, noninteractive, digital subscription transmissions. 17 U.S.C. 114(f).

The scope of this license was expanded in 1998 upon passage of the Digital Millennium Copyright Act of 1998 (''DMCA'' or ''Act''), Pub. L. 105–304, in order to allow a nonexempt eligible nonsubscription transmission and a nonexempt transmission by a preexisting satellite digital audio radio service to perform publicly a sound recording in accordance with the terms and rates of the statutory license. 17 U.S.C. 114(a).

An ''eligible nonsubscription transmission'' is a noninteractive, digital audio transmission which, as the name implies, does not require a subscription for receiving the transmission. The transmission must also be made as part of a service that provides audio programming consisting in whole or in part of performances of sound recordings the purpose of which is to provide audio or entertainment programming, but not to sell, advertise, or promote particular goods or services. A ''preexisting satellite digital audio radio service'' is a subscription digital audio radio service that received a satellite digital audio radio service license issued by the Federal Communications Commission on or before July 31, 1998. *See* 17 U.S.C. 114(j)(6) and (10).

In addition to expanding the current § 114 license, the DMCA also created a new statutory license for the making of an ''ephemeral recording'' of a sound recording by certain transmitting organizations. 17 U.S.C. 112(e). The new statutory license allows entities that transmit performances of sound recordings to business establishments, pursuant to the limitations set forth in Section 114(d)(1)(C)(iv), to make an ephemeral recording of a sound recording for purposes of a later transmission. The new license also provides a means by which a transmitting entity with a statutory license under Section 114(f) can make more than the one phonorecord permitted by the exemption specified in Section 112(a). 17 U.S.C. 112(e).

Determination of Reasonable Terms and Rates

The statutory scheme for establishing reasonable terms and rates is the same for both licenses. The terms and rates for the two new statutory licenses may be determined by voluntary agreement among the affected parties, or if necessary, through compulsory arbitration conducted pursuant to Chapter 8 of the Copyright Act.

If the affected parties are able to negotiate voluntary agreements, then it may not be necessary for these parties to participate in an arbitration proceeding. *See* 17 U.S.C. 112(e)(5) and 114(f)(3). Similarly, if the parties negotiate an industry-wide agreement, an arbitration may not be needed. In the latter case, the Librarian of Congress will follow current rate regulation procedures and notify the public of the proposed agreement in a notice and comment proceeding. If no party with a substantial interest and an intent to participate in an arbitration proceeding files a comment opposing the negotiated rates and terms, the Librarian will adopt the proposed terms and rates without convening a copyright arbitration royalty panel. 37 CFR 251.63(b). If, however, no industry-wide agreement is reached, or only certain parties negotiate license agreements, then those copyright owners and users relying upon one or both of the statutory licenses shall be bound by the terms and rates established through the arbitration process.

Arbitration proceedings cannot be initiated unless a party files a petition for ratemaking with the Librarian of Congress during the 60-day period, beginning July 1, 2002. 17 U.S.C. 112(e)(6) and 114(f)(2)(C)(ii)(II).

On November 27, 1998, the Copyright Office initiated a six-month voluntary negotiation period in accordance with Section 112(e)(3) and 114(f)(2)(A) for the purpose of establishing rates and terms for these licenses for the period beginning on the effective date of the DMCA and ending on December 31, 2000. 63 FR 65555 (November 27, 1998). Parties to these negotiations however, were unable to reach agreement on the rates and terms and, in accordance with Sections 112(e)(4) and 114(f)(1)(B), the Copyright Office initiated arbitration proceedings to determine the rates and terms for use of these licenses through December 31, 2000. 64 FR 52107 (September 27, 1999).

Subsequently, the Copyright Office initiated another voluntary negotiation period in January 2000 for the purpose of setting rates and terms for use of these licenses by services for the period between January 1, 2001, and December 31, 2002. 66 FR 2194 (January 13, 2000). Because the panel in both proceedings was to set rates and terms for the same licenses, albeit for different time periods, the Office consolidated the 1998–2000 proceeding with the 2001–2002 proceeding. *See* Order, Docket Nos.99–6 CARP DTRA and 2000–3 CARP DTRA2 (December 4, 2000). This consolidated proceeding is still ongoing and the CARP is scheduled to submit its report on February 20, 2002. *See* Order, Docket No. 2000–9 CARP DTRA1&2 (November 9, 2001).

Initiation of the Next Round of Voluntary Negotiations

Unless the schedule has been readjusted by the parties in a previous rate adjustment proceeding, Sections 112(e)(7) and 114(f)(2)(C)(i)(II) of the Copyright Act require the publication of a notice in January 2002, and at 2-year intervals thereafter, initiating the voluntary negotiation periods for determining reasonable rates and terms for the statutory licenses permitting the public performance of a sound recording by means of certain digital transmissions and the making of an ephemeral recording in accordance with Section 112(e). Parties who negotiate a voluntary license agreement during this period are encouraged to submit two copies of the agreement to the Copyright Office at the above-listed address within 30 days of its execution.

The publication of this notice fulfills the requirement. The negotiation period shall begin on January 30, 2002, and end on June 30, 2002.

Petitions

In the absence of a license agreement negotiated under 17 U.S.C. 112(e)(4) or 114(f)(2)(A), those copyright owners of sound recordings and entities availing themselves of the statutory licenses are subject to arbitration upon the filing of a petition by a party with a significant

interest in establishing reasonable terms and rates for the statutory licenses. Petitions must be filed in accordance with 17 U.S.C. 112(e)(7), 114(f)(2)(C)(ii)(II), and 803(a)(1) and may be filed any time during the sixty-day period beginning on July 1, 2002. *See also,* 37 CFR 251.61. Parties should submit petitions to the Copyright Office at the address listed in this notice. The petitioner must deliver an original and five copies to the Office.

Dated: January 24, 2002.

David O. Carson,

General Counsel.

[FR Doc. 02–2242 Filed 1–29–02; 8:45 am]

BILLING CODE 1410–33–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (02–010)]

Agency Information Collection

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of agency report forms under OMB review.

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. 3506(c)(2)(A)). This information collection is required to ensure proper accounting of Federal funds and property provided under cooperative agreements with commercial firms.

DATES: Comments on this proposal should be received on or before March 1, 2002.

ADDRESSES: All comments should be addressed to Desk Officer for NASA; Office of Information and Regulatory Affairs; Office of Management and Budget; Room 10236; New Executive Office Building; Washington, DC, 20503.

FOR FURTHER INFORMATION CONTACT: Ms. Nancy Kaplan, NASA Reports Officer, (202) 358–1372.

Title: Cooperative Agreements with Commercial Firms.

OMB Number: 2700–0092.

Type of review: Extension.

Need and Uses: Reporting and recordkeeping are prescribed under 14 CFR part 1274. Information collected ensures the accountability of public funds and proper maintenance of an appropriate internal control system.

Affected Public: Business or other for-profit.

Number of Respondents: 107.

Responses Per Respondent: 6.

Annual Responses: 658.

Hours Per Request: 7.

Annual Burden Hours: 4,592.

Frequency of Report: On occasion.

David B. Nelson,

Deputy Chief Information Officer, Office of the Administrator.

[FR Doc. 02–2190 Filed 1–29–02; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (02–011)]

Agency Information Collection Activities

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of agency report forms under OMB review.

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. 3506(c)(2)(A)). This information collection is utilized by NASA procurement and technical personnel in the management of contracts valued at less than $500K.

DATES: Comments on this proposal should be received on or before March 1, 2002.

ADDRESSES: All comments should be addressed to Desk Officer for NASA; Office of Information and Regulatory Affairs; Office of Management and Budget; Room 10236; New Executive Office Building; Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Ms. Nancy Kaplan, NASA Reports Officer, (202) 358–1372.

Title: NASA Acquisition Process—Reports Required On Contracts Valued at Less Than $500K.

OMB Number: 2700–0088.

Type of review: Extension.

Need and Uses: Information is used by NASA procurement and technical personnel in the management of contracts. Collection is prescribed in the NASA Federal Acquisition Regulation Supplement and approved mission statements.

Affected Public: Business or other for-profit; Not-for-profit institutions; State, Local or Tribal Government.

Number of Respondents: 1,282.

Responses Per Respondent: 30.

Annual Responses: 38,460.

Hours Per Request: 27 hrs.

Annual Burden Hours: 1,065,600.

Frequency of Report: On occasion.

David B. Nelson,

Deputy Chief Information Officer, Office of the Administrator.

[FR Doc. 02–2191 Filed 1–29–02; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (02–012)]

NASA Advisory Council, Biological and Physical Research Advisory Committee, Space Station Utilization Advisory Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council, Biological and Physical Research Advisory Committee, Space Station Utilization Advisory Subcommittee.

DATES: Tuesday, February 12, 2002, 8 a.m. to 5 p.m., and Wednesday, February 13, 2002, 8 a.m to 5 p.m.

ADDRESSES: Center for Advanced Space Studies, 3600 Bay Area Boulevard, Houston, Texas.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Uhran, Code UM, National Aeronautics and Space Administration, Washington, DC 20546,(202) 358–2233.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. Advance notice of attendance to the Executive Secretary is requested. The agenda for the meeting will include the following topics:

—Research Operations

—Executive Presentations

—Special Topics

—Response to Prior Recommendations

—Response to Prior Actions

—Task Force on Research Priorities

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key

participants. Visitors will be requested to sign a visitor's register.

Sylvia K. Kraemer,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 02–2192 Filed 1–29–02; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (02–013)]

NASA Advisory Council, Biological and Physical ResearchAdvisory Committee Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory CommitteeAct, Pub. L. 92–463, as amended, the National Aeronautics andSpace Administration announces a meeting of the NASA AdvisoryCouncil, Biological and Physical Research Advisory Committee.

DATES: Tuesday, February 19, 2002, 10 a.m. to 6 p.m.; and Wednesday, February 20, 2002, 8 a.m. to 12 Noon

ADDRESSES: American Management Association, 440 First St.,NW, Washington, DC 20001.

FOR FURTHER INFORMATION CONTACT: Dr. Bradley Carpenter,Code UG, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–0826.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Review Recommendations

—Program Overview

—Division Reports

—Status of International Space Station

—Non-governmental Organization (NGO) and Commercialization Status

—Education and Outreach Policy

—Review of Committee Findings and Recommendations It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Sylvia K. Kraemer,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 02–2193 Filed 1–29–02; 8:45 am]

BILLING CODE 7510–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–460]

Energy Northwest; Nuclear Project No. 1 (WNP–1) Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an extension of the latest construction completion date specified in Construction Permit No. CPPR–134 issued to Washington Public Power Supply System (permittee) for the Nuclear Project No. 1 (WNP–1). As part of this proposed action, the staff will update the permit to reflect an administrative change in the permit holder's name from the Washington Public Power Supply System to Energy Northwest. The facility is located at Energy Northwest's site on the Department of Energy's Hanford Reservation in Benton County, Washington, approximately eight miles north of Richland, Washington.

Environmental Assessment

Identification of Proposed Action

The proposed action would extend the latest construction completion date of Construction Permit No. CPPR–134 from June 1, 2001 to June 1, 2011, and update the permit to reflect an administrative change in the permit holder's name from the Washington Public Power Supply System to Energy Northwest. The proposed action is in response to Energy Northwest's request dated April 9, 2001.

The Need for the Proposed Action

The proposed action is needed to grant the licensee the option of completing construction on WNP–1 in the future. Energy Northwest requested the extension for WNP–1 because some of its stakeholders requested that a viability study be conducted on the completion of the facility. The request was made, in part, because of the increase in the electrical load in the Pacific Northwest. Until the viability study is completed and decisions on generating options to meet future load forecasts are finalized, Energy Northwest would like to maintain completing WNP–1 as an option.

Environmental Impacts of the Proposed Action

The environmental impacts associated with the construction of the facility have been previously discussed and evaluated in the Final Environmental Statement (FES), NUREG–75/012, March 1975, prepared as part of the NRC staff's review of the construction permit application. Because of the passage of time from the issuance of the FES, the staff requested additional information in a June 22, 2001, letter to Energy Northwest, to determine if the conclusions reached in the March 1975 FES remain valid. Energy Northwest responded to these questions in a letter dated November 27, 2001.

In its November 27, 2001, response, Energy Northwest addressed the impact of resumption of construction in the following areas: hstoric and culturally significant sites, disturbance of land and the Columbia River bed, socioeconomic impacts, additional cumulative impacts from other projects in the area, threatened and endangered species, and National Monuments. Highlights of Energy Northwest's response follow. Energy Northwest stated that no additional historic or culturally significant sites have been identified in areas that might be affected by the resumption of construction activities. Regarding disturbance of land and the Columbia River bed, Energy Northwest stated that resumption of construction would not require disturbance of any land that had not already been disturbed prior to the cessation of construction in 1983, and no disturbance of the riverbed or shoreline would be required by the resumption of construction.

Regarding the socioeconomic impacts of WNP–1 construction, Energy Northwest noted that the population in the area has grown and the public infrastructure has grown as well. Energy Northwest concludes that ''[c]ompared to 1975, the estimated socioeconomic impacts of WNP–1 construction would be the same or less.'' Regarding additional cumulative impacts from other projects in the area, Energy Northwest noted that it has no plans for other activities that could contribute to additional cumulative impacts. Energy Northwest did note that the U.S. Department of Energy has plans to construct a waste vitrification plant on the Hanford Site to process radioactive wastes presently stored in tanks. Energy Northwest states that no cumulative impact to the natural environment is anticipated if both construction of WNP–1 and the vitrification plant were pursued concurrently. It did note that it is possible that there would be an incremental stress on the local infrastructure.

Regarding threatened and endangered species, the staff provided two tables in its June 22, 2001, letter providing a list of species identified in the 1975 FES that have been listed as threatened or endangered by the Fish and Wildlife Service and a list of endangered species

based on information from the Environmental Protection Agency that may occur in Benton and Franklin Counties. In its November 27, 2001, response, Energy Northwest noted that ''[r]esumption of construction activities at WNP–1 would not be expected to cause adverse impacts to any listed aquatic or terrestrial species or their habitats. In-river construction work and all significant earthmoving activities have been completed. Experience at the neighboring Columbia Generating Station (having the same intake and outfall design) suggest that water withdrawals and discharges during construction and operation will not harm aquatic species.''

Energy Northwest also responded to a question regarding a recent Presidential Action to create a National Monument in the area near the WNP–1 construction site. In its November 27, 2001, response, Energy Northwest described the boundaries of the Hanford Reach National Monument that was designated by Presidential proclamation on June 9, 2000, noting that the monument generally includes a 1/4 mile corridor along the river in the vicinity of the WNP–1 site. In addition to the river corridor, the monument designation includes about 305 square miles that nearly circumscribe central Hanford. The areas leased by Energy Northwest for intake structures for WNP–1 and the Columbia Generating Station are included in the monument. Energy Northwest notes that construction activities at WNP–1 would not occur on or near the monument. However, there would be typical maintenance type activities within the WNP–1 makeup water pumphouse area. Based on Energy Northwest's November 27, 2001, response, the staff has determined that the conclusions reached in the March 1975 FES remain valid.

The construction of WNP–1 is approximately 65 percent complete; therefore, most of the construction impacts discussed in the FES have already occurred. This action would extend the period of construction as described in the FES and update the name of the construction permit holder. It does not involve any different impacts as described and analyzed in the environmental report and will not involve any different impacts from those described and analyzed in the environmental report. The proposed amendment will not allow any work to be performed that is not already allowed by the existing construction permit. The extension will grant Energy Northwest more time to complete construction in accordance with the previously approved construction permit. The change in the corporate name from the Washington Public Power Supply System to Energy Northwest is administrative in nature. The legal corporate status of the construction permit holder has not changed.

Based on the foregoing, the NRC staff has concluded that the proposed action would have no significant environmental impact. Because this action would only extend the period of construction activities described in the FES, it does not involve any different impacts or a significant change to those impacts described and analyzed in the environmental report. Consequently, an environmental impact statement addressing the proposed action is not required.

Alternatives to the Proposed Action

A possible alternative to the proposed action would be to deny the request. This would result in expiration of the construction permit for WNP–1. This option would require submittal of another application for construction in order to allow the permittee to complete construction of the facility with no significant environmental benefit. The environmental impacts of the proposed action and alternative action are similar.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in the FES for WNP–1.

Agencies and Persons Contacted

In accordance with its stated policy, on January 17, 2002, the staff consulted with the Washington State Official, Mr. Michael Mills of the Energy Facility Site Evaluation Council regarding the environmental impact of the proposed action. The State official had the following comment: ''Energy Northwest has an active Site Certification Agreement with the State of Washington that would allow, subject to amendment, WNP–1 to be constructed and operated. The State also maintains regulatory oversight of activities at the site.''

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that this action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for this action.

For further details with respect to this action, see the licensee's request for extension dated April 9, 2001, and its response to the staff's request for additional information dated November 27, 2001. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, *http:www.nrc.gov* (the Electronic Reading Room).

Dated at Rockville, Maryland this 24th day of January 2002.

For the Nuclear Regulatory Commission.

Marsha K. Gamberoni,

Deputy Director, New Reactor Licensing Project Office, Office of Nuclear Reactor Regulation.

[FR Doc. 02–2204 Filed 1–29–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Meeting of the ACRS Subcommittee on Reliability and Probabilistic Risk Assessment; Notice of Meeting

The ACRS Subcommittee on Reliability and Probabilistic Risk Assessment will hold a meeting on February 22, 2002, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows: *Friday, February 22, 2002—8:30 a.m. until the conclusion of business.*

The Subcommittee will continue its review of risk-informed revisions to the special treatment requirements of 10 CFR part 50 (Option 2). The Subcommittee will review the proposed industry guidance in NEI 00–04, ''Option 2 Implementation Guideline,'' and related matters. The purpose of this meeting is to gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the Designated Federal Official named below five days prior to the meeting, if

possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff, Nuclear Energy Institute, and other interested persons regarding these matters.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, and the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting the Designated Federal Official, Mr. Michael T. Markley (telephone 301/415–6885) between 7:30 a.m. and 4:15 p.m. (EST). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any potential changes to the agenda, etc., that may have occurred.

Dated: January 24, 2002.

Sam Duraiswamy,

Acting Associate Director for Technical Support, ACRS/ACNW.

[FR Doc. 02–2205 Filed 1–29–02; 8:45 am]

BILLING CODE 7590–01–P

COMMISSION ON OCEAN POLICY

Public Meeting

AGENCY: U.S. Commission on Ocean Policy.

ACTION: Notice.

SUMMARY: The U.S. Commission on Ocean Policy will hold its second regional meeting, the Commission's fourth public meeting, to hear and discuss coastal and ocean issues of concern to the Florida and Caribbean region.

DATES: The public meeting will be held Friday, February 22, 2002 from 8 a.m. to 6:30 p.m.

ADDRESSES: The meeting location is the Florida Marine Research Institute, Florida Fish and Wildlife Conservation Commission, First Floor Auditorium, 100 Eighth Avenue, SE, St. Petersburg, FL, 33701.

FOR FURTHER INFORMATION CONTACT: Terry Schaff, U.S. Commission on Ocean Policy, 1120 20th Street, NW, Washington, DC 20036, 202–418–3442, *tschaff@nsf.gov.*

SUPPLEMENTARY INFORMATION: This meeting is being held pursuant to requirements under the Oceans Act of 2000 (Pub. L. 106–256, section 3(e)(1)(E)). The agenda will include presentations by invited speakers representing local and regional government agencies and non-governmental organizations, comments from the public and any required administrative discussions and executive sessions. Invited speakers and members of the public are requested to submit their statements for the record electronically by February 13, 2002 to the meeting Point of Contact. Additional meeting information, including a draft agenda, will be posted as available on the Commission's Web site at *http://www.oceancommission.gov.*

Dated: January 24, 2002.

Thomas R. Kitsos,

Executive Director, U.S. Commission on Ocean Policy.

[FR Doc. 02–2194 Filed 1–29–02; 8:45 am]

BILLING CODE 6820–WM–P

SECURITIES AND EXCHANGE COMMISSION

[Extensions: Regulation D and Form D OMB Control No. 3235–0076, SEC File No. 270–72]

Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Form D sets forth rules governing the limited offer and sale of securities without Securities Act registration. The purpose of Form D notice is to collect empirical data, which provides a continuing basis for action by the Commission either in terms of amending existing rules and regulations or proposing new ones. In addition, the Form D allows the Commission to elicit information necessary in assessing the effectiveness of Regulation D and Section 4(6) as capital-raising devices for all businesses. Approximately 13,518 issuers file Form D and it takes approximately 16 hours to prepare. It is estimated that 90% of the 216,288 burden hours (194,659 hours) is prepared by the company.

Written comments are invited on: (a) Whether this collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

Dated: January 17, 2002.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–2183 Filed 1–29–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45315; File No. SR–OPRA–2001–05]

Options Price Reporting Authority; Notice of Filing and Immediate Effectiveness of Amendment to OPRA Plan To Revise OPRA's Fee Schedule To Reflect Changes to Various Fees

January 18, 2002.

Pursuant to rule 11Aa3–2 under the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on December 11, 2001, the Options Price Reporting Authority (''OPRA''),[2]

[1] 17 CFR 240.11Aa3–2.

[2] OPRA is a national market system plan approved by the Commission pursuant to Section 11A of the Exchange Act, 15 U.S.C. 78k–1, and Rule 11Aa3–2 thereunder, 17 CFR 240.11Aa3–2. *See* Securities Exchange Act Release No. 17638 (March 18, 1981), 22 S.E.C. Docket 484 (March 31, 1981). The OPRA Plan provides for the collection and dissemination of last sale and quotation information on options that are traded on the participant exchanges. The five signatories to the OPRA Plan that currently operate an options market are the American Stock Exchange, the Chicago Board Options Exchange, the International Securities Exchange, the Pacific Exchange, and the Philadelphia Stock Exchange. The New Stock Exchange is a signatory to the OPRA Plan, but sold its options business to the Chicago Board Options

Continued

submitted to the Securities and Exchange Commission (''Commission'') an amendment to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information (''OPRA Plan''). The proposed amendment would (i) increase certain fees charged by OPRA in respect of its Basic Service; (ii) expand the entitlement of professional subscribers that elect to pay OPRA's Enterprise Rate Professional Subscriber Fee in lieu of the device-based Professional Subscriber Fee by adding to the category of persons entitled to receive OPRA market data under the subscribers' Enterprise Rate plan independent investment advisers that contract with such subscribers to provide services to the subscriber's customers; and (iii) eliminate the ''Ratio Paging Service Fee'' as a separate usage-based fee, and clarify that radio paging and related types of services qualify for the ''dial-up'' usage-based fee, at the same rate. OPRA has designated the proposed OPRA Plan amendment as establishing or changing a fee or other charge collected on behalf of all of the OPRA participants in connection with access to or use of OPRA facilities and the proposal is, therefore, effective upon filing, pursuant to Rule 11Aa3–2(c)(3)(i) under the Act.[3] The Commission is publishing this notice to solicit comments on the proposed OPRA Plan amendment from interested persons.

I. Description and Purpose of the Amendment

The text of the revised fee schedule is set forth below. Text additions are in *italics*, deletions are in brackets:

OPTIONS PRICE REPORTING AUTHORITY FEE SCHEDULE

[Effective February 1, 2002]

Description	Basic service [4]
Direct Access Charge: A monthly fee payable by every person that has been authorized by OPRA to receive Options Information via the consolidated high-speed service from OPRA's processor. This charge includes one primary and one back-up circuit connection at the processor. Additional circuit connections are available at a monthly charge of $100 per connection.	*$1,000* [$750]
Redistribution Fee: A monthly fee payable by every vendor that redistributes Options Information to any person, whether on a current or delayed basis, except that this fee shall not apply to a vendor whose redistribution of Options Information is limited solely to ''historical'' Options Information, as that term is defined in the Vendor Agreement.	$1,500 *$650* [$600] (Internet service only)
Dial-up Market Data Service Utilization Fee: A monthly fee, payable in arrears, consisting of a usage-based fee for each ''quote packet'' consisting of any one or more of the following values: last sale, bid/ask, and related market data for a single series of options or a related index or, if elected in writing by vendor, a usage-based fee for each ''options chain'' consisting of last sale, bid/ask, and related market data for up to all series of put and call options on the same underlying security or index, in each case as accessed over vendor's ''Dial-up Market Data Service [as an alternative to the port charge described above]. *A vendor's ''Dial-up Market Data Service'' may consist of any wired or wireless private network or Internet-based communications system by means of which a vendor provides options market data to its customers subject to and in accordance with a ''Dial-up Market Data Service Rider'' to its Vendor Agreement.* All inquiries shall be counted for purposes of calculating the usage-based fee, except that requests for ''historical'' information shall not be subject to charge. For this purpose, market information derived from a given trading day of an options market becomes ''historical'' upon the opening of trading on the next succeeding trading day of that market.	Usage-based fee at a rate of $0.005 per ''quote packet'' or $0.02 per ''options chain'', subject to a maximum fee of $1.00 on account of the use made in any month by any single non-professional subscriber.
[Radio Paging Service Fee: A monthly fee, payable in arrears by every vendor that offers a radio paging market data service, for each text display paging device enabled to receive the service provided by the vendor or by a radio paging company that receives options market data from the vendor. Alternatively, vendor may elect in writing to pay a usage-based fee for each ''quote packet'' consisting of any one or more of the following values: last sale, bid/ask, and related market data for a single series of options or a related index or, if elected in writing by vendor, a usage-based fee for each ''options chain'' consisting of last sale, bid/ask, and related market data for up to all series of put and call options on the same underlying security or index, in each case as accessed over vendor's Radio Paging Service, as an alternative to the device charge described above. All inquiries shall be counted for purposes of calculating the usage-based fee, except that requests for ''historical'' information shall not be subject to charge. For this purpose, market information derived from a given trading day of an options market becomes ''historical'' upon the opening of trading on the next succeeding trading day of that market.].	[$1 per device, or usage-based fee at a rate of $0.005 per ''quote packet'' or $0.02 per ''options chain''.]

[4] OPRA's Basic Service does not include last sale and quotation information pertaining to foreign currency options. Subscribers who have access to FCO information are subject to a separate FCO Service subscriber fee.

The purpose of the amendment is to increase certain fees charged by OPRA in respect of its Basic Service, to make minor editorial changes to the Basic Service fee schedule, and to expand the coverage of the Enterprise Rate Professional Subscriber Fee. Specifically, OPRA proposes to increase by approximately five percent the device-based information fee payable to OPRA by professional subscribers to OPRA's Basic Service, which consists of market data and related information pertaining to equity and index options (''OPRA data'').[5] OPRA also proposes to increase from $750 to $1,000 OPRA's direct access charge (applicable to persons who receive OPRA data by means of a direct high-speed connection to the OPRA Processor), and to increase from $600 to $650 OPRA's Internet-only redistribution fee (payable by persons who redistribute OPRA data solely by means of the Internet). OPRA also proposes to update the terminology used in the OPRA fee schedule by eliminating the ''Radio Paging Service Fee'' as a separate usage-based fee category, and by amending the description of OPRA's ''Dial-up Market

Exchange in 1997. *See* Securities Exchange Act Release No. 38542 (April 23, 1997), 62 FR 23521 (April 30, 1997).

[3] 17 CFR 240.11Aa3–2(c)(3)(i).

[5] No changes are proposed to be made at this time to fees charged to vendors and subscribers for access to information pertaining to foreign currency options provided through OPRA's FCO Service.

Data Service Utilization Fee'', which is a usage-based fee at the same rate as the radio paging fee, to make it clear that radio paging services and other types of wired and wireless network services, including Internet-based services, qualify for this usage-based fee. These terminology changes will have no effect on the fees paid to OPRA by any persons.

The proposed increase in device-based professional subscriber fees ranges from 4.55% to 6.90% of the existing fees. Professional subscriber fees charged to members will continue to be discounted by two percent for members who preauthorize payment by electronic funds transfer through an automated clearinghouse system. OPRA estimates that the overall effect of the proposed increase in professional subscriber fees will be to increase revenues derived from professional subscriber fees by approximately five percent. Professional subscribers are those persons who subscribe to OPRA Data and do not qualify for the reduced fees charged to nonprofessional subscribers.

As an alternative to device-based fees, professional subscribers may pay an Enterprise Rate Professional Subscriber Fee based on the number of their U.S. registered representatives. This amendment proposes to expand the entitlement of professional subscribers that elect to pay OPRA's Enterprise Rate Professional Subscriber Fee by allowing OPRA's Basic Service to be made available to independent investment advisers who contract with such subscribers to provide investment advisory services to the subscribers' customers. Heretofore such investment advisers have had to pay OPRA's regular, device-based professional subscriber fee in order to access OPRA data. All investment advisers who contract with an Enterprise Rate professional subscriber to provide investment advisory services to the subscriber's customers, and who will therefore be entitled to access OPRA data under the sponsorship of the subscriber, will be added to the subscriber's count of registered representatives for purposes of calculating the subscriber's Enterprise Rate Professional Subscriber Fee. No other changes are proposed to be made to the Enterprise Rate Professional Subscriber Fee.

The proposed increases in the device-based professional subscriber fee, the direct access fee, and the Internet-only redistribution fee are intended to generate additional revenues for OPRA in order to cover actual and anticipated increases in the costs of collecting, consolidating, processing and disseminating options market. These increases reflect the costs of continuing enhancements to and upgrades of the OPRA system to enable it to handle a greater volume of market information as a result of the continuing expansion of listed options trading and the implementation of decimal pricing. The proposed expanded entitlement of Enterprise Rate subscribers to include independent investment advisers reflects the expanded utilization of independent investment advisers by retail brokerage firms, and is intended to lower the cost of access to OPRA data to those firms and to their independent investment advisers.

II. Implementation of the Plan Amendment

OPRA represents that the proposed OPRA Plan amendment establishes or changes a fee or other charge collected on behalf of all of the OPRA participants in connection with access to or use of OPRA facilities and is, therefore, effective upon filing, pursuant to Rule 11Aa3–2(c)(3)(i) under the Act.[6] In order to give persons subject to the fees advance notice of the changes, OPRA proposes to put them into effect commencing February 1, 2002. At any time within 60 days of the filing of the OPRA Plan amendment, the Commission may summarily abrogate the amendment and require that such amendment be filed in accordance with Rule 11Aa3–2(b)(1) under the Act[7] and reviewed in accordance with Rule 11Aa3–2(c)(2) under the Act[8] if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or the maintenance of fair and orderly markets; to remove impediments to, and perfect the mechanisms of, a national market system; or otherwise in furtherance of the purposes of the Act.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed OPRA Plan amendment is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC, 20549–0609. Copies of the submission, all subsequent amendments, and all written statements with respect to the proposed OPRA Plan amendment that are filed with the Commission, and all written communications relating to the proposed OPRA Plan amendment between the Commission and any person, other than those withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available at the principal offices of OPRA. All submissions should refer to File No. SR–OPRA–2001–05 and should be submitted by February 20, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 02–2214 Filed 1–29–02; 8:45 am]

BILLING CODE 8010–01–M

[6] 17 CFR 240.11 Aa3–2(c)(3)(i).

[7] 17 CFR 240.11 Aa3–2(b)(1).

[8] 17 CFR 240.11 Aa3–2(c)(2).

[9] 17 CFR 200.30–3(a)(29).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45326; File No. SR–NYSE–99–51]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Order Tracking and Amendment Nos. 1, 2 and 3 Thereto

January 23, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on December 27, 1999, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. On May 24, 2000, the Exchange filedAmendment No. 1 to the proposal.[3] On August 14, 2001, the Exchange filed Amendment No. 2 to the proposal.[4] On

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Letter from James E. Buck, Senior Vice President and Secretary, NYSE, to Jennifer Colihan, Attorney, Division of Market Regulation (''Division''), Commission, dated May 22, 2000 (''Amendment No. 1''). In Amendment No. 1, the Exchange deleted the phrase ''or execution'' from proposed Rule 132B(a)(1)(C) as unnecessary for application of the Rule.

[4] *See* Letter from Darla C. Stuckey, Assistant Secretary, NYSE, to Nancy J. Sanow, Assistant Director, Division, Commission, dated August 14, 2001 (''Amendment No. 2''). In Amendment No. 2, the Exchange proposed to: (1) Amend Rule 123 by adding proposed paragraph (f) which would set forth the details required to be recorded of each execution report, including a unique order identifier, and (2) amend Rule 132.30 by deleting

Continued

January 17, 2002, the Exchange filed Amendment No. 3 to the proposal.[5]

The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of amendments NYSE Rule 123, Interpretation .30 to NYSE Rule 132, and the proposed adoption of new NYSE Rules 132A, B and C, which will govern order tracking. The text of the proposed rule change is as follows (additions are italicized; deletions are bracketed):

Rule 123—Records of Orders

(f) Reports of Order Executions

Order execution reports must be entered into the same database as required by this rule for the entry of orders. Any member organization proprietary system used to record the details of an order pursuant to paragraph (e) must also be capable of transmitting a report of the order's execution to such database. Order execution reports must be entered into such system within such time frame as the Exchange may prescribe. The details of each execution report required to be recorded shall include the following data elements, and any modifications to the report, in such form as the Exchange may from time to time prescribe:

1. *Order identifier that uniquely identifies the order as required by paragraph (e);*
2. *Symbol;*
3. *Number of shares or quantity of security;*
4. *Transaction price;*
5. *Time the trade was executed;*
6. *Executing broker badge number, or alpha symbol as may be used from time to time, in regard to its side of the contract;*
7. *Executing broker badge number, or alpha symbol as may be used from time to time, of the contra side to the contract;*
8. *Clearing firm number, or alpha symbol as may be used from time to time, in regard to its side of the contract;*
9. *Clearing firm number, or alpha symbol as may be used from time to time, in regard to the contra side of the contract;*
10. *Whether the account for which the order was executed was that of a member or member organization or of a non-member or non-member organization;*
11. *Identification of member or member organization which recorded order details as required by paragraph (e);*
12. *Date the order was entered into an Exchange system;*
13. *Indication as to whether this is a modification to a previously submitted report;*
14. *Settlement Instructions (e.g., cash, next day, or seller's option);*
15. *Special Trade Indication, if applicable;*
16. *Online Comparison System (OCS) Control Number;*
17. *Such other information as the Exchange may from time to time require*

Comparison and Settlement of Transactions Through A Fully-Interfaced or Qualified Clearing Agency

Rule 132

* * * * *

.30 Regardless of whether or not a Fully-Interfaced or Qualified Clearing Agency is being used for the comparison and/or settlement of a round-lot regular way contract for the purchase or sale of a security entered into on the Exchange, each clearing member organization that is a party to such contract shall submit to a Fully-Interfaced or Qualified Clearing Agency, as defined above, in such form and within such time periods as may be prescribed by the Clearing Agency, or the Exchange, as appropriate, each of the following trade data elements:

(1) Name or identifying symbol of the security, as may be required by the clearing agency;

(2) Number of shares or quantity of security;

(3) Transaction price;

(4) Time the trade was executed;

(5) Executing broker badge number, or alpha symbol as may be used from time to time, in regard to its side of the contract;

(6) Executing broker badge number, or alpha symbol as may be used from time to time, of the contra side to the contract;

(7) Clearing firm number, or alpha symbol as may be used from time to time, in regard to its side of the contract;

(8) Clearing firm number, or alpha symbol as may be used from time to time, in regard to the contra side of the contract;

(9) Whether the account for which the order was executed was that of a member or member organization or of a non-member or non-member organization;

[(10) The order identifier for the order as prescribed in Rule 132B(e);]

(10) [(11)] Such other information as the Exchange may from time to time require.

Each clearing member organization that is a party of a round lot non-regular way contract for the purchase or sale of a security entered into on the Exchange shall submit each of the trade data elements referred to above to the Exchange, in such form and within such time periods as the Exchange may prescribe.

* * * * *

Rule 132A. Synchronization of Member Business Clocks

Each member and member organization shall synchronize its business clocks that are used for purposes of recording the date and time of any event that must be recorded pursuant to the Rules of the Exchange, with reference to a time source as designated by the Exchange, and shall maintain the synchronization of such business clocks in conformity with such procedures as are prescribed by the Exchange.

Rule 132B. Order Tracking Requirements

(a) *Procedures.*

1. *With respect to any security listed on the New York Stock Exchange, each member and member organization shall:*

A. *immediately following receipt or origination of an order, record each item of information described in paragraph (b) of this Rule that applies to such order, and record any additional information described in paragraph (b) of this Rule that applies to such order immediately after such information is received or becomes available; and*

B. *immediately following the transmission of an order to another member, or from one department to another within the same member organization, record each item of information described in paragraph (c) of this Rule that applies with respect to such transmission; and*

132.30(10), which would have required a unique order identifier be added to the data elements in post trade processing. The Exchange represents that this change will ensure that a unique order identifier will be attached throughout the life of an order, thus simplifying the tracking process.

[5] See Letter from Darla Stuckey, Corporate Secretary, NYSE, to Belinda Blaine, Associate Director, Division, Commission, dated January 17, 2002 (''Amendment No. 3''). In Amendment No. 3, the Exchange explained that it did not believe that it was cost-effective to store all order tracking data collected from members on a daily basis, and clarified that therefore members would be required to submit data to the NYSE on an ''as requested'' basis rather than daily as a matter of routine. The Exchange also represented that the data collected would be used solely for regulatory purposes, and that it would not use data received from its members pursuant to the proposed rules to gain a competitive advantage over another self-regulatory organization or broker-dealer. Lastly, the Exchange explained what it considered order origination and time of receipt of an order.

C. *immediately following the modification or cancellation of an order, record each item of information described in paragraph (d) of this Rule that applies with respect to such modification or cancellation.*

2. *Each required record of the time of an event shall be expressed in terms of hours, minutes, and seconds.*

3. *Each member or member organization shall, by the end of each business day, record each item of information required to be recorded under this Rule in such electronic form as is prescribed by the Exchange from time to time.*

4. *Maintaining and Preserving Records*

A. *Each member and member organization shall maintain and preserve records of the information required to be recorded under this Rule for the period of time and accessibility specified in SEC Rule 17a-4(b).*

B. *The records required to be maintained and preserved under this Rule may be immediately produced or reproduced on ''micrographic media'' as defined in SEC Rule 17a-4(f)(1)(i) or by means of ''electronic storage media'' as defined in SEC Rule 17a-4(f)(1)(ii) that meet the conditions set forth in SEC Rule 17a-4(f) and be maintained and preserved for the required time in that form.*

(b) *Order Origination and Receipt*

Unless otherwise indicated, the following order information must be recorded under this Rule when an order is received or originated:

1. *an order identifier meeting such parameters as may be prescribed by the Exchange assigned to the order by the member or member organization that uniquely identifies the order for the date it was received;*

2. *the identification symbol assigned by the Exchange to the security to which the order applies;*

3. *the market participant symbol assigned by the Exchange to the member or member organization;*

4. *the identification of any department or the identification number of any terminal where an order is received directly from a customer;*

5. *where the order is originated by a member or member organization, the identification of the department (if appropriate) of the member that originates the order;*

6. *the number of shares to which the order applies;*

7. *the designation of the order as a buy or sell order;*

8. *the designation of the order as a short sale order;*

9. *the designation of the order as a market order, limit order,* stop order or stop limit order;

10. *any limit and/or stop price prescribed in the order;*

11. *the date on which the order expires, and, if the time in force is less than one day, the time when the order expires;*

12. *the time limit during which the order is in force;*

13. *any request by a customer that an order not be displayed pursuant to Rule 11Acl-4(c) under the Securities Exchange Act of 1934;*

14. *special handling requests, specified by the Exchange for purposes of this Rule;*

15. *the date and time the order is originated or received by a Member or member organization; and*

16. *the type of account, i.e., retail, wholesale, employee, proprietary, or any other type of account designated by the Exchange, for which the order is submitted.*

(a) *Order Transmittal.*

Order information required to be recorded under this Rule when an order is transmitted includes the following:

1. *When a member or member organization transmits an order to another department within the member, other than to the trading department, the member or member organization shall record:*

A. *the order identifier assigned to the order by the member or member organization,*

B. *the market participant symbol assigned by the Exchange to the member or member organization,*

C. *the date the order was first originated or received by the member or member organization, D. an identification of the department to which the order was transmitted, and*

E. *the date and time the order was received by that department;*

1. *When a member or member organization transmits an order to another member or member organization:*

A. *the transmitting member or member organization shall record:*

(i) *whether the order was transmitted manually or electronically,*

(ii) *the order identifier assigned to the order by that member or member organization,*

(iii) *the market participant symbol assigned by the Exchange to that member or member organization,*

(iv) *the market participant symbol assigned by the Exchange to the member or member organization to which the order is transmitted,*

(v) *the date the order was first originated or received by the transmitting member or member organization,*

(vi) *the date and time the order is transmitted, (vii) the number of shares to which the transmission applies, and*

(viii) *for each order to be included in a bunched order, the bunched order route indicator assigned to the bunched order by the member or member organization; and*

B. *the receiving member or member organization shall record, in addition to all other information items in Rule 132B that apply with respect to such order:*

(i) *the fact that the order was received manually or electronically;*

(ii) *the order identifier assigned to the order by the member or member organization that transmits the order, and*

(iii) *the market participant symbol assigned by the Exchange to the member or member organization that transmits the order.*

C. *The requirement in paragraph 2A above to record information regarding the transmission of an order to another member or member organization shall not apply to:*

(i) *the transmitting member or member organization where the order was transmitted to the Floor by means of the SuperDOT system; or*

(ii) *the transmitting member on the Floor, where the order is transmitted on the Floor to another member, and the order had been entered into an Exchange data base pursuant to Exchange Rule 123(e) or had been received on the Floor by means of the SuperDOT system, except that the transmitting member shall record the order identifier as specified in paragraph (e) of this Rule, and the market participant symbol assigned by the Exchange to the member or member organization to which the order was transmitted.*

D. *The requirement in paragraph 2B above to record information regarding the receiving of an order shall not apply where:*

(i) *the receiving member or member organization received the order by means of the SuperDOT system; or*

(ii) *the receiving member received the order on the Floor from another member on the Floor, and the order had been entered into an Exchange data base pursuant to Exchange Rule 123(e) or had been received on the Floor by means of the SuperDOT system, except that the receiving member shall record the order identifier as specified in paragraph (e) of this Rule, and the market participant symbol assigned by the Exchange to the member or member organization from which the order was received.*

3. *When a member or member organization transmits an order to a*

non-member, the member or member organization shall record:

A. *the fact that the order was transmitted to a non-member,*

B. *the order identifier assigned to the order by the member or member organization,*

C. *the market participant symbol assigned by the Exchange to the member or member organization,*

D. *the date the order was first originated or received by the member or member organization,*

E. *the date and time the order is transmitted,*

F. *the number of shares to which the transmission applies, and*

G. *for each manual order to be included in a bunched order, the bunched order route indicator assigned to the bunched order by the member or member organization.*

(d) *Order Modifications and Cancellations.*

Order information required to be recorded under this Rule when an order is modified or canceled includes the following:

1. *When a member or member organization modifies or receives a modification to the terms of the order, the member or member organization shall record, in addition to all other applicable information items (including a new order identifier) that would apply as if the modified order were originated or received at the time of the modification:*

A. *the order identifier assigned to the order by the member or member organization prior to the modification,*

B. *the date and time the modification was originated or received and*

C. *the date the order was first originated or received by the member or member organization.*

2. *When the member or member organization cancels or receives a cancellation of an order, in whole or part, the member or member organization shall record:*

A. *the order identifier assigned to the order by the member or member organization,*

B. *the market participant symbol assigned by the Exchange to the member or member organization,*

C. *the date the order was first originated or received by the member or member organization,*

D. *the date and time the cancellation was originated or received,*

E. *if the open balance of an order is canceled after a partial execution, the number of shares canceled, and*

F. *whether the order was canceled on the instruction of a customer or the member or member organization.*

3. *The requirements in paragraphs 1 and 2 above regarding the recording of information with respect to receiving a modification or cancellation of an order shall not apply where:*

(i) *the receiving member or member organization received the modification or cancellation by means of the SuperDOT system; or*

(ii) *the receiving member received the modification or cancellation on the Floor from another member on the Floor, and such modification or cancellation had been entered into an Exchange database pursuant to Exchange Rule 123(e), or had been received on the Floor by means of the SuperDOT system.*

(e) *The order identifier referred to in paragraph (b)(1) above shall be the order identifier required by Exchange Rule 123(e) with respect to any order transmitted by a member or member organization to the Floor for execution, and to any order received on the Floor by a member or member organization from off the Floor, except that the order identifier with respect to an order transmitted to the Floor by means of the SuperDOT system shall be the order identifier assigned to such order.*

(f) *The provisions of this Rule shall not apply to members effecting on the Floor proprietary transactions when they are acting in the capacity of a specialist, a Registered Competitive Market Maker, or a Competitive Trader.*

Rule 132C: Transmission of Order Tracking Information to the Exchange

Members and member organizations shall be required to transmit to the Exchange, in such format as the Exchange may from time to time prescribe, such order tracking information as the Exchange may request.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to add new provisions and procedures in its rules to require the recording of details of orders in Exchange listed securities by its members and member organizations. The requirements of amended Rule 123, Rule 132 and new Rules 132A, B and C will be integrated into existing Exchange procedures and systems to create a complete order audit trail from origination through execution and cancellation.

a. *Summary of Proposed Rules.*

The Exchange proposes the adoption of four new rules which will require members and member organizations (herein referred to collectively as ''members'') to record and retain order information, to synchronize their time keeping equipment with a time source designated by the Exchange and to provide the Exchange with information on orders when so requested. Specifically, the Exchange has adopted requirements for the electronic capture of orders at the point of sale (front end systemic capture, or ''FESC'') [6] and is proposing requirements for the electronic capture of orders at the point of receipt (order tracking system, or ''OTS''). The purpose of the requirements is to create a complete systemic record of orders handled by members and member organizations. These requirements will provide benefits both to the Exchange and members in terms of recordkeeping, surveillance and order processing. The design of FESC and OTS includes linking them to other Exchange systems in order to maximize their use. A key to linking is the provision for a unique order identifier in Rule 123(e). This order identifier is required to be included in each phase of processing as the order moves from entry through execution (or modification or cancellation) into reporting of an execution. With this unique identifier attached throughout the life of the order, tracking the order will be simplified. The order identification requirement would actually become effective when Rule 123(f) is implemented, which would be concurrent with the Exchange's implementation of proposed Rules 132A, B, and C. The proposed

[6] *See* Securities Exchange Act Release No. 43689 (December 7, 2000), 65 FR 79145 (December 18, 2000).

rules and amendments are detailed below.

i. *Rule 123(f)*

Proposed Rule 123(f) requires that order execution reports be entered into FESC, and that any member organization proprietary system used to record the details of an order must also be capable of transmitting a report of the order's execution to FESC. The proposed rule further requires that the details of each execution report required to be recorded must include the following data elements: (1) Order identifier that uniquely identifies the order as required by paragraph 123(e); (2) symbol; (3) number of shares or quantity of security; (4) transaction price; (5) time the trade was executed; (6) executing broker badge number, or alpha symbol as may be used from time to time, in regard to its side of the contract; (7) executing broker badge number, or alpha symbol as may be used from time to time, of the contra side to the contract; (8) clearing firm number, or alpha symbol as may be used from time to time, in regard to its side of the contract; (9) clearing firm number, or alpha symbol as may be used from time to time, in regard to the contra side of the contract; (10) whether the account for which the order was executed was that of a member or member organization or of a non-member or non-member organization; (11) identification of member or member organization which recorded order details as required by paragraph (e); (12) date the order was entered into an Exchange system; (13) indication as to whether this is a modification to a previously submitted report; (14) settlement instructions (*e.g.,* cash, next day, or seller's option); (15) Special Trade Indication, if applicable; (16) online Comparison System (OCS) Control Number; and (17) such other information as the Exchange may from time to time require.

ii. *Rule 132A*

Proposed Rule 132A requires members to synchronize the business clocks used to record the date and time of any event that the Exchange requires to be recorded. The Exchange will require that the date and time of orders in securities listed on the Exchange be so recorded. The proposed Rule also requires that members maintain the synchronization of this equipment in conformity with procedures prescribed by the Exchange. The Exchange intends to coordinate time synchronization with the National Association of Securities Dealers Inc.'s (''NASD'') identical requirements.[7]

[7] *See* NASD Rule 6953.

iii. *Rule 132B*

Proposed Rule 132B prescribes requirements and procedures with respect to orders in any security listed on the Exchange received or originated by a member. Paragraph (a) of the proposed rule requires immediate recordation of the data elements described in paragraph (b). If an order is transmitted to another member or is transmitted to another department of the same member, information detailed in paragraph (c) must be recorded. If an order is modified or cancelled, information required by paragraph (d) must be recorded. The various data elements and information required by the proposed rule must be recorded in an electronic format prescribed by the Exchange. Time records must be expressed in hours, minutes and seconds. The Rule makes clear that the records required therein must be preserved pursuant to Rule 17a–4(b) under the Act and that these records may be produced or reproduced on ''micrographic media'' as contemplated under Rule 17a–4(f) under the Act.

Paragraph (b) of the proposed rule contains the sixteen data elements to be recorded for an order. These include: (1) An order identifier; (2) stock symbol; (3) identification of the member; (4) department identification of the member or terminal identification number for orders received via a SuperDOT terminal; (5) department of the member which originated the order; (6) number of shares; (7) buy or sell order designation; (8) whether the order is a short sale order; (9) whether the order is a market, limit, stop or stop limit order (which terms are defined in Rule 13 of the Exchange); (10) any limit price, stop price or stop limit price prescribed in the order; (11) the date, if any, that an order expires or, if the order is in force for less than a day, the time when it expires; (12) the time limit the order is in force; (13) any request by the customer that the order not be displayed pursuant to Rule 11Ac1–4 under the Act; (14) any special handling requests (such as fill or kill, market-on-close, limit-on-close, not held, etc); (15) date and time of origination or receipt of the order;[8] and (16) the type of account for which the order is entered. Each of these data elements are commonly understood and used by members.

Paragraph (e) of the proposed rule explains that the order identifier is the order identifier required by NYSE Rule 123(e). As explained above, this is the identifier assigned to an order in connection with the Exchange's FESC initiative. Under Rule 123(e), before an order is represented or executed on the Floor of the Exchange, a member must assign a unique identifier to it. This identifier will stay with the order throughout its processing life, through cancellation or execution.

Paragraph (c) of proposed rule 132B requires that certain information be recorded when an order is transmitted to another department within the member, to another member, or to a non-member. When transmitted to another department, the following must be recorded: the order identifier, identification of the member, the date of receipt or origination of the order, the identification of the department to which the order was transmitted and the date and time the order was received by the department.

Paragraph (c)(2) contains requirements for both receiving and transmitting members when an order is transmitted from one member to another. The transmitting member must record whether the order was transmitted manually or electronically, the order identifier, market participant symbol for both receiver and transmitter, date of origination or receipt by the transmitting member, the date and time the order was transmitted, the number of shares so transmitted and, if the order is included in a bunched order, the bunched order route indicator assigned by the member. A bunched order is any aggregation of two or more orders. The receiving member must record whether the transmitted order was received manually or electronically, the order identifier and the identifier of the member transmitting the order.

Exceptions to the requirement for recording information for both the transmitting and receiving member are contained in proposed Rule 132B(c)(2)(C) and 132(c)(2)(D). These exceptions are for orders transmitted to the Floor via SuperDOT, the Exchange's automated order routing system, and orders transmitted to another member on the Floor of the Exchange, where the order was entered into an Exchange data base pursuant to Rule 123(e), the Exchange's front-end systemic order capture requirements. In light of the objective of being able to identify an order from start to finish, both the receiving and transmitting members

[8] For purposes of Rule 132B(b)(15), for electronic orders, the Exchange will consider order origination and time of receipt of an order to be the time the order is captured by a member organization's electronic order-routing or execution system. For manual orders, the Exchange will consider order origination and time of receipt of an order to be the time the order is first received by the member organization from the customer. *See* Amendment No. 3, *supra* note 5.

must record the order identifier and the identity of the member transmitting and receiving the order.

For orders transmitted to a non-member, the member must record that fact as well as the order identifier, member's identity, date of receipt or origination of the order, date and time of the order, number of shares, and, if applicable, any bunched order route indicator.

If an order is modified, proposed Rule 132B(d) requires that the order identifier (and any new order identifier, if applicable), date and time of modification and date the original order was received or originated be recorded. If an order is cancelled, (d)(2) requires the date and time of cancellation, whether the customer or the member cancelled the order, and the number of shares cancelled if there is a partial execution. This is in addition to the basic requirements to record the order identifier, identity of the member and the date and time when the order was first received or originated.

The same exceptions with respect to SuperDOT orders and orders on the Floor entered into a database under Rule 123(e) will apply to modifications and cancellations. Modification and cancellation will be elements captured in these systems, and will not need to be captured by the member on the Floor.

Paragraph (f) of proposed rule 132B provides an exception to the Rule for proprietary transactions of specialists, Registered Competitive Market Makers and Competitive Traders. The transactions these members effect for their own accounts are not, in effect, orders as contemplated by the Rule. Information with respect to these transactions is recorded and maintained by these members pursuant to the recordkeeping requirements of Exchange and Commission Rules.

iv. *Rule 132C*

New Rule 132C requires members, upon request, to transmit order tracking data to the Exchange. This parallels the approach used under Rule 410A (Automated Submission of Trading Data) for submission of transaction information. The Exchange will make requests for order tracking information on an as-needed basis in order for the Exchange to carry out its surveillance and regulatory functions. The Commission recognizes that the NYSE, in its regulatory capacity, can obtain sensitive market data that could benefit the NYSE's market operation if used for competitive purposes. The NYSE has assured the Commission that this information is being collected solely for regulatory purposes and that it will not use OTS data to gain an unfair competitive advantage over other market participants.[9]

Members will be required to submit the data in an automated format. It is the Exchange's experience that submission of data by request has proven to be effective and efficient from both the Exchange's and its members' viewpoint.

b. *Integration with Existing Exchange Requirements*

With the implementation of Rule 132B, Exchange rules will provide a complete audit trail of orders from receipt through execution. As mentioned above, NYSE Rule 123(e) provides for the systemic capture of orders before they are represented or executed on the Floor. This includes the assignment of the unique identifier to each order. In addition, the Exchange intends to require that, in the future, all orders be systemically delivered to its Floor, thus providing an electronic capture of order data from receipt or origination of an order. The audit trail requirements of proposed Rule 132B require information on the execution and clearance of transactions, the so-called ''back end'' of orders. With the addition of Rule 123(f), which requires recordation of the unique order identifier as part of the execution report, the Exchange represents that an order could be tracked throughout the life of the order. The unique order identifier would link the execution report to the original order.

c. *Violation of Order Tracking Requirements*

If, upon investigation, the Exchange determines that a violation of the Rule proposed to be amended or adopted herein has occurred, the Exchange will take appropriate action under the procedures of its disciplinary rules, including Rule 476. If a particular violation is deemed minor in nature, this could include issuance of a cautionary letter. In the future, the Exchange will consider seeking approval to add these rules to the list of rules contained in Rule 476A which provides for the imposition of fines for minor violations of rules.

d. *Effective Date*

The Exchange will require that the provisions of the rules and amendments proposed herein become effective fifteen months after the Commission's approval.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)[10] that an exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and to perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The proposed rule change will enable the Exchange to fulfill its regulatory responsibilities to effectively surveil its market. The proposed rule change fulfills an undertaking contained in an order issued by the Commission[11] relating to the Exchange's regulatory responsibilities. Specifically, the Order directed the Exchange to ''design and implement * * * an audit trail sufficient to enable the NYSE to reconstruct its market promptly. * * *'' The Order called for ''an accurate, time-sequenced record of orders''' throughout an order's life, from receipt through execution or cancellation and for synchronization of clocks used in connection with the audit trail of orders.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) by order approve the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. In particular,

[9] *See* Amendment No. 3, *supra* note 5.

[10] 15 U.S.C. 78f(b)(5).

[11] *See* In the Matter of New York Stock Exchange, Inc. SEC Release No. 41574 (June 29, 1999); Administrative Proceeding File No. 3–9925 (''Order'').

the Commission solicits comments on when the Exchange should consider a manual order ''received'' for purposes of proposed NYSE Rule 132B(b)(15). As proposed, the Exchange will consider the time of receipt of such as order as the time the firm first receives the order from a customer. However, the Commission and the Exchange are aware that there are occasions when members receive orders after business hours, and at remote locations. For these reasons, the Commission requests comment on whether is it reasonable to interpret time of receipt of a manual order to be when the order is first received by the member without further consideration given to when and/or where the order was received by the member. To the extent commenters believe that modification to the interpretation is needed, the Commission requests that commenters provide specific suggestions on what the time of receipt for manual orders should be.

The Commission also requests comment on whether NYSE members that are also members of the NASD required to comply with NASD's Order Audit Trail System (''OATS'') rules will be able to use the internal systems they currently have in place for collecting and storing order tracking data in order to comply with the proposed NYSE rules, or whether they will need to make system changes.

Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–99–51 and should be submitted by February 20, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 02–2213 Filed 1–29–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45332; File No. SR–NYSE–2002–05]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange, Inc. To Amend NYSE Rule 440H To Conform the Rule With Recent Amendments to Section 31 of the Securities Exchange Act of 1934

January 24, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 9, 2002, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') or ''SEC'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange filed the proposal pursuant to section 19(b)(3)(A) of the Act,[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission.[5] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend NYSE Rule 440H, Transaction Fees, to conform it to Congress' recent amendment of section 31 of the Act.[6] The text of the proposed rule change is available at the NYSE and at the Commission.

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] The NYSE asked the Commission to waive the 30-day operative delay. *See* Rule 19b–4(f)(6)(iii). 17 CFR 240.19b–4(f)(6)(iii).

[6] 15 U.S.C. 78ee.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NYSE included statements concerning the purpose of and basis for its proposal and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Until recently, section 31 of the Act[7] has required the remittance of a fee to the SEC of 1/300 of one percent of the aggregate dollar amount of the sales of securities. Excluded from this requirement is the sale of any bonds, debentures, or other evidences of indebtedness and any sale or class of sales of securities that the SEC may, by rule, exempt from the imposition of this fee.

Congress recently passed the ''Investor and Capital Markets Relief Act'' (''ICMRA''), which amends section 31 of the Act. The ICMRA reduces the fee to $15 per $1 million of the aggregate dollar amount of the sale of securities, effective as of December 28, 2001. The ICMRA provides that the SEC will, twice yearly, determine the amount of any future changes in the fee.

The Exchange proposes to amend NYSE Rule 440H to conform references to the fee amounts to Congress' amendments to section 31 of the Act.[8]

2. Statutory Basis

The Exchange believes that the proposed rule is consistent with the provisions of section 6(b)(5) of the Act[9] that require an Exchange to have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose

[7] *Id.*

[8] *Id.*

[9] 15 U.S.C. 78f(b)(5).

any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

(i) Significantly affect the protection of investors or the public interest;

(ii) impose any significant burden on competition; and

(iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to section 19(b)(3)(A) of the Act [10] and Rule 19b–4(f)(6) thereunder.[11] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

The NYSE has requested that the Commission waive the 30-day operative delay. The Commission finds good cause to waive both the 5-day pre-filing notice requirement and the 30-day operative delay, because such designation is consistent with the protection of investors and the public interest. Acceleration of the operative date will allow the NYSE to immediately conform NYSE Rule 440H to section 31 of the Act. For these reasons, the Commission finds good cause to waive both the 5-day pre-filing requirement and the 30-day operative delay.[12]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to file number SR–NYSE–2002–05 and should be submitted by February 20, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 02–2215 Filed 1–29–02; 8:45 am]

BILLING CODE 8010–01–M

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6).

[12] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[13] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

The Ticket To Work and Work Incentives Advisory Panel Meeting

AGENCY: Social Security Administration (SSA).

ACTION: Notice of meeting.

DATES: February 12, 2002, 10 a.m.–5 p.m.; February 13, 2002, 9 a.m.–5 p.m.; February 14, 2002, 9 a.m.–3 p.m.

ADDRESSES: Omni Shoreham Hotel, 2500 Calvert Street, NW., Washington, DC 20008, Phone: (202) 234–0700, Fax: (202) 265–7972.

SUPPLEMENTARY INFORMATION:

Type of meeting: This is a quarterly meeting open to the public. The public is invited to participate by coming to the address listed above. Public comment will be taken during the quarterly meeting. The public is also invited to submit comments in writing on the implementation of the Ticket to Work and Work Incentives Improvement Act (TWWIIA) of 1999 at any time.

Purpose: In accordance with section 10(a)(2) of the Federal Advisory Committee Act, the Social Security Administration (SSA) announces a meeting of the Ticket to Work and Work Incentives Advisory Panel (the Panel). Section 101(f) of the Public Law 106–170 establishes the Panel to advise the Commissioner of SSA, the President, and the Congress on issues related to work incentives programs, planning and assistance for individuals with disabilities as provided under section 101(f)(2)(A) of the TWWIIA. The Panel is also to advise the Commissioner on matters specified in section 101(f)(2)(B) of that Act, including certain issues related to the Ticket to Work and Self-Sufficiency Program established under section 101(a) of the Act.

Interested parties are invited to attend the meeting. The Panel will use the meeting time to receive briefings, hear presentations, conduct full Panel deliberations on the implementation of TWWIIA, receive public testimony and conduct other business.

The Panel will meet in person commencing on Tuesday, February 12, 2001 from 10 a.m. to 5 p.m.; Wednesday, February 13, 2001 from 9 a.m. to 5 p.m.; and Thursday, February 14, 2001 from 9 a.m. to 3 p.m.

Agenda: The Panel will hold a quarterly meeting. Briefings, presentations, full Panel deliberations and other Panel business will be held Tuesday, Wednesday and Thursday, February 12, 13 and 14, 2002. Topics of discussion may include Ticket Program policy implementation; the Social Security Administration's (SSA's) adequacy of incentive study and 1 for 2 demonstration; and updates from ticket program-related federal partners. Public testimony will be heard in person Wednesday February 13, 2002 from 2 p.m. to 3:30 p.m. and on Thursday February 14, 2002 from 9 a.m. to 10:30 a.m. Members of the public must schedule a timeslot in order to comment. In the event that the public comments do not take up the scheduled time period for public comment, the Panel will use that time to deliberate and conduct other Panel business. Individuals interested in providing testimony in person should contact the Panel staff as outlined below to schedule time slots. Each presenter will be called on by the Chair in the order in which they are scheduled to testify and is limited to a maximum five-minute verbal presentation. Full written testimony on TWWIIA Implementation, no longer than 5 pages, may be submitted in person or by mail, fax or email on an on-going basis to the Panel for consideration.

Since seating may be limited, persons interested in providing testimony at the meeting should contact the Panel staff by e-mailing Kristen M. Breland, at *kristen.m.breland@ssa.gov* or calling (202) 358–6423.

The full agenda for the meeting will be posted on the Internet at http://www.ssa.gov/work/panel/ two weeks before the meeting or can be received in

advance electronically or by fax upon request.

Contact Information: Any requiring information regarding the Panel should contact the TWWIIA Panel staff. Records are being kept of all Panel proceedings and will be available for public inspection by appointment at the Panel office. Anyone requiring information regarding the Panel should contact the Panel staff by:

- Mail addressed to Social Security Administration, Ticket to Work and Work Incentives Advisory Panel Staff, 400 Virginia Avenue, SW., Suite 700, Washington, DC 20024.
- Telephone contact with Kristen Breland at (202) 358–6423.
- Fax at (202) 358–6440.
- E-mail to *TWWIIAPanel@ssa.gov.*

Dated: January 25, 2002.

Deborah M. Morrison,

Designation Federal Officer.

[FR Doc. 02–2366 Filed 1–29–02; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Docket No. RSPA–01–10867; Notice 2]

Pipeline Safety: Petition for Waiver; Williams Gas Pipelines-West

Williams Gas Pipelines-West (or ''Williams'') petitioned the Research and Special Programs Administration (RSPA) for a waiver from compliance with the regulation at 49 CFR 192.611(d) until June 30, 2003. This regulation requires pipeline operators to confirm or revise the maximum allowable operating pressure of certain gas transmission lines within 18 months after population growth changes the classification of the line.

The petition concerns a 1500-foot pipeline segment constructed in 1991 in Utah County, Utah, that changed from Class 2 to Class 3 due to development of a subdivision. The segment is part of the Kern River natural gas transmission line, which runs from Wyoming to the San Joaquin Valley near Bakersfield, California, where the gas is used in the generation of electricity.

The petition indicates the change in classification comes while Williams is undertaking an expansion project on its Kern River line, which it plans to complete in 2003, pending approval by the Federal Energy Regulatory Commission. Rather than replace the 1500-foot segment with new pipe to satisfy § 192.611(d), the petition indicates Williams prefers to relocate the segment to a less populated right-of-way as part of the expansion project. The relocation alternative would result in a single impact to land owners and the environment during the construction.

In response to Williams' petition, we published a notice explaining why granting a waiver from 49 CFR 192.611(d) until June 30, 2003, to allow Williams time to carry out its relocation plan, would not be inconsistent with pipeline safety (Notice 1; 66 FR 59045; Nov. 26, 2001). In that notice, we invited interested persons to submit written comments on the proposed waiver by December 26, 2001. However, we did not receive any comments on the proposed waiver.

In accordance with the foregoing, RSPA, by this order, finds that compliance with § 192.611(d) is unnecessary for the reasons stated in Notice 1 of this proceeding, and that granting Williams' requested waiver would not be inconsistent with pipeline safety. Accordingly, Williams' petition for waiver from compliance with § 192.611(d) is granted until June 30, 2003. As stated in Notice 1, if there is an unforeseen delay in the relocation project, we may extend the June 30, 2003, deadline up to an additional 6 months without further opportunity to comment by publishing a notice of such extension in the **Federal Register**.

Authority: 49 U.S.C. 60118(c); and 49 CFR 1.53.

Issued in Washington, DC on January 24, 2002.

Stacey L. Gerard,

Associate Administrator for Pipeline Safety.

[FR Doc. 02–2211 Filed 1–29–02; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34130]

RailAmerica, Inc.—Control Exemption—Kiamichi Holdings, Inc. and KiamichiRailroad L.L.C.[1]

AGENCY: Surface Transportation Board.

ACTION: Notice of exemption.

SUMMARY: Under 49 U.S.C. 10502, the Board exempts from the prior approval requirements of 49 U.S.C. 11323, *et seq.*, the acquisition by RailAmerica, Inc. (RailAmerica or petitioner) of control of Kiamichi Holdings, Inc., and its subsidiary Class III rail carrier Kiamichi Railroad L.L.C. RailAmerica is a noncarrier holding company that controls two Class II and 23 Class III rail carriers. Petitioner has agreed to acquire the railroad subsidiaries of Kauri, Inc., pursuant to two notices of exemption and this petition for exemption.[2] RailAmerica requests expedited action on the exemption petition. The request is addressed in the Board's decision.

DATES: The exemption will be effective on date of publication. Petitions for reconsideration must be filed by February 14, 2002.

ADDRESSES: Send an original and 10 copies of any pleadings referring to STB Finance Docket No. 34130 to: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423–0001. In addition, send one copy of any pleadings to petitioner's representatives: Gary A. Laakso, *Esq.*, 5300 Broken Sound Blvd., NW, Second Floor, Boca Raton, FL 33487, and Louis E. Gitomer, Esq., 1455 F Street, NW, Suite 225, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar (202) 565–1600. [TDD for the hearing impaired: 1–800–877–8339.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dā 2 Dā Legal, 1925 K Street NW, Suite 405, Washington, DC 20006. Telephone: (202) 293–7776.

Board decisions and notices are available on our Web site at www.stb.dot.gov.

Decided: January 23, 2002.

[1] On December 5, 2001, a protective order was issued in this proceeding. The title reflected the expected participation of West Texas and Lubbock Railroad Company, Inc. (West Texas). Because West Texas will not, in fact, be a party to the transaction, the above title has been revised to reflect that fact.

[2] On December 7, 2001, RailAmerica filed a notice of exemption to acquire control of the Alabama & Gulf Coast Railway L.L.C. *See RailAmerica, Inc.-Control Exemption-New StatesRail Holdings, Inc. and Alabama & Gulf Coast Railway L.L.C.,* STB Finance Docket No. 34128 (STB served Dec. 28, 2001). Also on December 7, RailAmerica filed a notice of exemption to acquire control of Arizona Eastern Railway Company, Eastern Alabama Railway, Kyle Railroad Company, San Joaquin Valley Railroad Company, and SWKR Operating Co. *See RailAmerica, Inc.-Control Exemption-StatesRail Acquisition Corp. and StatesRail, Inc.,* STB Finance Docket No. 34129 (STB served Dec. 28, 2001). Regarding another short line railroad company, RailAmerica filed a notice of exemption on November 28, 2001, to acquire control of ParkSierra Corp. *See RailAmerica, Inc.-Control Exemption-ParkSierra Acquisition Corp. and ParkSierra Corp.,* STB Finance Docket No. 34100 (STB served Dec. 20, 2001).

By the Board, Chairman Morgan and Vice Chairman Burkes.

Vernon A. Williams,

Secretary.

[FR Doc. 02–2258 Filed 1–29–02; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Customs Service

Proposed Collection; Comment Request; Request for Information

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning Request for Information. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before April 1, 2002, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW, Room 3.2C, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW, Room 3.2C, Washington, DC 20229, Tel. (202) 927–1429.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Request for Information.

OMB Number: 1515–0068.

Form Number: Customs Form 28.

Abstract: Customs Form 28 is used by Customs personnel to request additional information from importers when the invoice or other documentation provide insufficient information for Customs to carry out its responsibilities to protect revenues.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Businesses, Individuals, Institutions.

Estimated Number of Respondents: 60,000.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 30,000.

Estimated Total Annualized Cost on the Public: N/A.

Dated: January 24, 2002.

Tracey Denning,

Information Services Group.

[FR Doc. 02–2165 Filed 1–29–02; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

Proposed Collection; Comment Request; Certificate of Compliance for Turbine Fuel Withdrawals

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Certificate of Compliance for Turbine Fuel Withdrawals. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before April 1, 2002, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW, Room 3.2C Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn. Tracey Denning, 1300 Pennsylvania Avenue NW, Room 3.2C, Washington, DC 20229, Tel. (202) 927–1429.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Certificate of Compliance for Turbine Fuel Withdrawals.

OMB Number: 1515–0209.

Form Number: N/A.

Abstract: This information is collected to ensure regulatory compliance for Turbine Fuel Withdrawals to protect revenue collections.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Businesses, Individuals, Institutions.

Estimated Number of Respondents: 20.

Estimated Time Per Respondent: 12 hours.

Estimated Total Annual Burden Hours: 240.

Estimated Total Annualized Cost on the Public: N/A.

Dated: January 24, 2002.

Tracey Denning,

Team Leader, Information Services Group.

[FR Doc. 02–2166 Filed 1–29–02; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

Proposed Collection; Comment Request; Entry of Articles for Exhibition

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning Entry of Articles for Exhibition. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before April 1, 2002, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW., Room 3.2C, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW., Room 3.2C, Washington, DC 20229, Tel. (202) 927–1429.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Entry of Articles for Exhibition.

OMB Number: 1515–0106.

Form Number: N/A.

Abstract: This information is used by Customs to substantiate that the goods imported for exhibit have been approved for entry by the Department of Commerce.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Businesses, Individuals, Institutions.

Estimated Number of Respondents: 40.

Estimated Time Per Respondent: 20 minutes.

Estimated Total Annual Burden Hours: 530.

Estimated Total Annualized Cost on the Public: N/A.

Dated: January 24, 2002.

Tracey Denning,

Team Leader, Information Services Group.

[FR Doc. 02–2167 Filed 1–29–02; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

Proposed Collection; Comment Request; Customs Regulations for Customhouse Brokers

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Customs Regulations for Customhouse Brokers. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before April 1, 2002, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW, Room 3.2C, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn. Tracey Denning, 1300 Pennsylvania Avenue NW, Room 3.2C, Washington, DC 20229, Tel. (202) 927–1429.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Customs Regulations for Customhouse Brokers.

OMB Number: 1515–0100.

Form Number: N/A.

Abstract: This information is collected to ensure regulatory compliance for Customhouse brokers.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Businesses, Individuals, Institutions.

Estimated Number of Respondents: 500.

Estimated Time Per Respondent: 3 hours.

Estimated Total Annual Burden Hours: 1,500.

Estimated Total Annualized Cost on the Public: $150,000.

Dated: January 24, 2002.

Tracey Denning,

Information Services Group.

[FR Doc. 02–2168 Filed 1–29–02; 8:45 am]

BILLING CODE 4820–02–P

Notices

Federal Register
Vol. 67, No. 20
Wednesday, January 30, 2002

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notice of Public Information Collections Being Reviewed by the Agency for International Development; Comments Requested

SUMMARY: U.S. Agency for International Development (USAID) is making efforts to reduce the paperwork burden. USAID invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act for 1995. Comments are requested concerning: (a) Whether the proposed or continuing collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: submit comments on or before April 1, 2002.

FOR FURTHER INFORMATION CONTACT: Beverly Johnson, Bureau for Management, Office of Administrative Services, Information and Records Division, U.S. Agency for International Development, Room 2.07–106, RRB, Washington, DC 20523, (202) 712–1365 or via e-mail bjohnson@usaid.gov.

SUPPLEMENTARY INFORMATION:

OMB No: OMB 0412–0552.

Form No.: N/A.

Title: Financial Status Report or Equivalent.

Type of Review: Renewal of Information Collection.

Purpose

In its appropriations act, Congress always requests country level financial expenditure data in order to determine whether funds appropriated to the Agency are being used for their intended purpose and are not used to support activities that are not in the US National Interest. Generally, this has been fairly straightforward for assistance recipients who work specifically in one country, but harder to capture in the cases where recipients operate at a regional scale. Therefore, for each country where USAID spends money, careful review is necessary in order to be able to certify that funds expended do not go into programs where funding is prohibited, restricted or limited. Financial expenditure data by country is used by the agency to meet several reporting requirements for Congress. Country specific financial expenditure data is also used to determine whether the agency is meeting Congressional ceilings and earmarks. In addition, Congressional notification is required for activities in certain countries (Burma, Cambodia, Colombia, Democratic Republic of Congo, etc), as well as activities covering certain subject matter such as activities promoting country participation in the Kyoto Protocol, use of notwithstanding authority for supporting energy programs aimed at reducing greenhouse gas emissions. In each case, Congress requests to know the amount of taxpayer dollars that is expended by the program or in the specific country. USAID currently requires grant and cooperative agreement recipients who work in multiple countries to provide expenditure reports by country. The purpose of this notice is to extend the class deviation to the statute from the Office of Management and Budget in accordance with 22 CFR 226.4. The information is being collected so that USAID can ensure programs do not fund activities in countries where the United States Congress has prohibited or fund programs where Congress has limited the types of activities that may be funded.

Annual Reporting Burden:

Respondents: 80.

Total annual responses: 320.

Total annual hours requested: 800 hours.

Dated: January 24, 2002.

Joanne Paskar,

Chief, Information and Records Division, Office of Administrative Services, Bureau for Management.

[FR Doc. 02–2207 Filed 1–29–02; 8:45 am]

BILLING CODE 6116–01–M

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

January 24, 2002.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 *and* to Department Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–6746.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

National Agricultural Statistics Service

Title: Livestock Survey.

OMB Control Number: 0535–0005.

Summary of Collection: The primary function of the National Agricultural Statistics Service (NASS) is to prepare and issue current official State and national estimates of crop and livestock production. General authority for data collection activities is granted under U.S. Code Title 7, Section 2204. This statute specifies that the ''The Secretary of Agriculture shall procure and preserve all information concerning agriculture which he can obtain * * * by the collection of statistics * * * and shall distribute them among agriculturists''. The Livestock survey is conducted annually to estimate livestock totals at State and county levels. Information from federally and non-federally inspected slaughter plants are used to estimate total red meat production.

Need and Use of the Information: NASS will use a survey to collect information on the number of head slaughtered plus live and dressed weights of beef, veal, pork, lamb, mutton, goats, and equine. Accurate and timely livestock estimates provide USDA and the livestock industry with basic date to project future meat supplies and producer prices. Agricultural economists in both the public and private sectors use this information in economic analyses and research.

Description of Respondents: Business or other for-profit; Farms.

Number of Respondents: 58, 127.

Frequency of Respondents: Reporting: Weekly; Monthly; Annually.

Total Burden Hours: 19,248.

National Agricultural Statistics Service

Title: Mink.

OMB Control Number: 0535–0212.

Summary of Collection: The primary function of the National Agricultural Statistics Service (NASS) is to prepare and issue current official State and national estimates of crop and livestock production. Statistics on mink production are published for the 15 major states that account for 95 percent of the U.S. production. There is no other source for this type of information. General authority for these data collection activities is granted under U.S. Code Title 7, Section 2204.

Need and Use of the Information: NASS collects information on mink pelts produced by color, number of females bred to produce kits the following year, number of mink farms, average marketing price, and the value of pelts produced. The data is disseminated by NASS in the Mink Report and is used by the U.S. Government and other groups.

Description of Respondents: Farms.

Number of Respondents: 370.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 51.

Foreign Agricultural Service

Title: Specialty Sugar Certificates.

OMB Control Number: 0551–0025.

Summary of Collection: Provisions associated with Presidential Proclamation No. 4941 prevented the importation of certain refined sugars used for specialized purposes originating in countries that did not have quota allocations. This led the Secretary of Agriculture to announce a quota system requiring certificates for entering specialty sugar. In order to grant licenses, ensure that imported specialty sugar does not disrupt the current domestic support program, and maintain administrative control over the program, an application with certain specific information must be collected from those who wish to participate in the program established by the regulation. Accordingly, applicants must supply information in 15 CFR 2011.205 to be considered eligible for a certificate.

Need and Use of the Information: Importers are required to supply specific information to the Secretary and the Foreign Agricultural Service, in order to be granted a certificate to import specialty sugar. The information is supplied to U.S. Customs officials in order to certify that the sugar being imported is ''specialty sugar.'' Without the collection of this information the Certifying Authority would not have any basis on which to make a decision on whether a certificate should be granted, and would not have the ability to monitor sugar imports under this program.

Description of Respondents: Business or other for-profits; Individuals or households.

Number of Respondents: 20.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 40.

Farm Service Agency

Title: 7 CFR Part 1427-Regulations Governing CCC Nonrecourse Cotton Loan Programs for 1996 and Subsequent Crops.

OMB Control Number: 0560–0074.

Summary of Collection: Nonrecourse marketing assistance loans for upland and extra long staple (ELS) cotton are authorized by sections 113 through 134 of the Federal Agriculture Improvement and Reform Act of 1996 (the 1996 Act) and the Commodity Credit Corporation (CCC) Charter Act. The loans are implemented by the Farm Service Agency (FSA) under regulations at 7 CFR 1427.1 through 1427.26. Nonrecourse loans for upland cotton may be repaid at a reduced rate, but such loans for ELS cotton are repayable at principal plus interest. Producers requesting CCC cotton loans must provide information to verify eligiblity of themselves and the cotton being offered as loan collateral. FSA will collect information using several forms.

Need and Use of the Information: FSA will collect information to determine loan quantities and principal amounts to administer the program and verify commodity and producer eligibility. Without the information from the producer, CCC could not carry out the statutory loan provisions.

Description of Respondents: Individuals or households; Business or other for-profit.

Number of Respondents: 96,122.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 45,246.

Farm Service Agency

Title: Certification of Livestock Losses for Eligible Disaster.

OMB Control Number: 0560–0179.

Summary of Collection: Under Public Law 106–387, Sec. 813 states ''The Secretary shall use up to $10,000,000 of the funds of the Commodity Credit Corporation to make livestock indemnity payment to producers on a farm that have incurred livestock losses during calendar year 2000 due to a disaster, as determined by the Secretary, including losses due to fires and anthrax. Over the past several years, Congress has provided ad hoc funding under several appropriation bills to partially compensate producers who lost livestock because of natural diasters. Producers requesting compensation on CCC–661, Certificate of Livestock Losses for Eligible Disaster, must provide documentation to the Farm Service Agency (FSA) that shows the number and type of livestock lost in the disaster.

Need and Use of the Information: FSA will collect information to determine eligibility and the amount of compensation. Without obtaining the information from the producers, FSA could not carry out the statutory provisions and ensure that funds are being provided to eligible producers.

Description of Respondents: Farms.

Number of Respondents: 2,000.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 5,000.

Risk Management Agency

Title: Specialty Crop Producers Survey.

OMB Control Number: 0563–NEW.

Summary of Collection: The Agricultural Risk Protection Act (ARPA) of 2000 requires the Risk Management Agency (RMA) to increase the availability of risk management tools with a priority given to producers of specialty crops. Specialty crops are generally defined as agricultural crops, except wheat, feed grains, oilseeds, cotton, rice, peanuts, and tobacco. Specialty crops include everything from the common fruits and vegetables to mushrooms and maple syrup. The first step in the development of appropriate risk management tools for specialty crop producers is obtaining information that will identify risk structures specific to specialty crop farmers and to specialty crop categories. The survey will identify the potential market for specialty crop insurance, and provide the data necessary to evaluate the options for new insurance programs for specialty crops.

Need and Use of the Information: RMA will collect information to determine how a crop insurance program may be designed or adapted to meet the needs of specialty crop producers. The survey will enable the research partnership of RMA and the universities to develop a risk management profile of specialty crop producers. If the survey were not conducted, the development of risk management programs for specialty crop producers would be compromised.

Description of Respondents: Farms.

Number of Respondents: 69,700.

Frequency of Responses: Reporting: Other (one-time).

Total Burden Hours: 32,526.

Rural Business-Cooperative Service

Title: 7 CFR 4279–B, Guaranteed Loan Making—Business and Industry Loans.

OMB Control Number: 0570–0017.

Summary of Collection: The Business and Industry (B&I) program was legislated in 1972 under section 310B of the Consolidated Farm and Rural Development Act, as amended. The purpose of the program is to improve, develop, and finance businesses, industries, and employment and improve the economic and environmental climate in rural communities. This purpose is achieved through bolstering the existing private credit structure through the guaranteeing of quality loans made by lending institutions, thereby providing lasting community benefits. The B&I program is administered by the Rural Business-Cooperative Service (RBS) through Rural Development State and sub-State offices serving each State. RBS will collect information using forms RD 4279–1, 4279–2, 4279–3, 4279–4 and 4279–6.

Need and Use of the Information: RBS will collect information to determine lender and borrower eligibility and creditworthiness. The information is used by RBS loan officers and approval officials to determine program eligibility and for program monitoring.

Description of Respondents: Business or other for-profit; State, Local or Tribal Government.

Number of Respondents: 8, 875.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 20,813.

Rural Business-Cooperative Service

Title Annual Survey of Cooperative Involvement in International Markets.

OMB Control Number: 0570–0020.

Summary of Collection: The Cooperative Marketing Act of 1926, 7 U.S.C. 453(b)(5), authorizes the Rural Business-Cooperative Services (RBS) to acquire from all available sources, information concerning crop prospects, supply, demand, current receipts, exports, imports, and prices of agricultural products handled or marketed by cooperative associations, and to employ qualified commodity marketing specialists to summarize and analyze this information and disseminate the same among cooperative associations, and others.'' The mission of the Cooperative Services Program of RBS is to assist farmer-owned cooperatives in improving the economic well being of their farmer-members. The facilitate the program's mission and activities as authorized by the Cooperative Marketing Act of 1926, RBS collects, maintains, and analyzes data pertaining to farmer cooperatives. Information is collected through an annual survey mailed to all cooperatives.

Needs and Use of the Information: The information collected by RBS will be used to comply with the agency's mission to acquire and report such information. In addition to monitoring and reporting the progress of cooperatives in global markets, RBS will use the data in economic/market research and will also produce educational materials about cooperatives.

Description of Respondents: Business or other for-profit.

Number of Respondents: 127.

Frequency of Responses: Reporting: Annually.

Total Burden Hours. 127.

Rural Utilities Service

Title: RUS Electric Loan Application and Related Reporting Burdens.

OMB Control Number 0572–0032.

Summary of Collection: The Rural Utilities Service (RUS) was established in 1994 by the Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994 (Public Law 103–354, 108 Stat. 3178, 7 U.S.C. et seq.) As successor to the Rural Electrification Administration (REA), RUS is responsible for administering the electric loan and loan guarantee programs authorized under the Rural Electrification Act (RE Act of 1936). The Administrator of RUS is authorized to make and guarantee loans to furnish and improve electric service in rural areas. These loans are amortized over a period of up to 35 years and secured by the borrower's electric assets. RUS will collect information including studies and reports to support borrower loan applications.

Need and Use of the Information: RUS will collect information to determine the eligibility of applicants for loans and loan guarantees under the RE Act; monitor the compliance of borrowers with debt covenants and regulatory requirements in order to protect loan security; ensure that borrowers use loan funds for purposes consistent with the statutory goals of the RE Act; and obtain information on the progress of rural electrification and evaluate the success of RUS program activities.

Description of Respondents: Not-for-profit institutions; Business or other for-profit; State, Local or Tribal Government.

Number of Respondents: 680.

Frequency of Responses: Reporting: On occasion; Annually.

Total Burden Hours: 65,673.

Natural Resources Conservation Service

Title: Risk Protection Programs.

OMB Control Number: 0578–0028.

Summary of Collection: The primary objective of the Natural Resources Conservation Service (NRCS) is to work in partnership with the American people to conserve and sustain our natural resources. The purpose of the Risk Protection Program is to provide NRCS program participants a method for making application for participation in the Agricultural Management Assistance and Soil and Water Conservation Assistance Program. The Risk Protection Program is authorized under the Agricultural Risk Protection Act of 2000, Public Law 106–224,

sections 133(b) and 211(b). NRCS is responsible for the administration of various conservation programs. Assistance is provided to land users to voluntarily develop plans and apply conservation treatments for those programs. NRCS will collect information using forms CCC–1200, Conservation Program Contract and CCC–1245, Practice Approval and Payment Application.

Need and Use of the Information: NRCS will collect information to authorize the responsible federal official to make federal cost-share payments to the land user, or third party, upon successful application of the long-term conservation treatment. Without the information, funds appropriated by Congress could not be obligated or dispensed without the supporting information on either the Conservation Program Contract or the Practice Approval and Payment Authorization forms.

Description of Respondents: Farms; Individuals or households; Not-for-profit institutions; State, Local or Tribal Government.

Number of Respondents: 5,000.

Frequency of Responses: Reporting: Annually; Other (as required for assistance).

Total Burden Hours: 2,917.

Animal and Plant Health Inspection Service

Title: Certificate of Poultry and Hatching Eggs for Export.

OMB Control Number: 0579–0048.

Summary of Collection: Certificate for Poultry and Hatching Eggs for Export is authorized by 21 U.S.C. 112 and 113. The regulation that implements this law is found in part 91 of Title 9, Code of Federal Regulations. The export of agricultural commodities, including poultry and hatching eggs, is a major business in the United States and contributes to a favorable balance of trade. As part of its mission to facilitate the export of U.S. poultry and poultry products, the U.S. Department of Agriculture (USDA), Animal and Plant Health Inspection Service (APHIS), Veterinary Services, maintains information regarding the import health requirements of other countries for poultry and hatching eggs exported from the U.S. Most countries require a certification that our poultry and hatching eggs are disease free. APHIS will collect information on the quantity and type of poultry and hatching eggs designated for export, using form 17–6, Certificate for Poultry and Hatching Eggs for Export.

Need and Use of the Information: The information collected prevents unhealthy poultry or disease-carrying hatching eggs from being exported from the United States, thereby preventing the international dissemination of poultry diseases. The collection of information also is necessary to satisfy the import requirements of the receiving countries, thereby protecting and encouraging trade with the United States.

Description of Respondents: Farms; Federal Government;State, Local or Tribal Government;Individuals or households; Business or other for-profit.

Number of Respondents: 300.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 10,500.

Animal and Plant Health Inspection Service

Title: 9 CFR 85 Psuedorabies.

OMB Control Number: 0579–0070.

Summary of Collection: The Animal and Plant Health Inspection Service (APHIS), on behalf of the Secretary of Agriculture, is charged with taking actions deemed necessary to prevent the introduction or dissemination of any contagious infections or communicable disease of animals or poultry from one State or Territory of the United States to another. APHIS implements regulations that control and stop the escalating spread of psuedorabies, which is a herpes virus disease that affects many species of animal, but primarily swine. Regulating the interstate movement of swine requires the use of certain information gathering activities such as permits, certificates, and owner-shipper statements to ascertain the health status of the swine.

Need and Use of the Information: The information collected is used by APHIS to monitor the health status of swine being moved, the number of swine being moved in a particular shipment, the shipment's point of origin, the shipment's destination, and the reason for the interstate movement. This information also provides APHIS officials with critical information concerning a shipment's history, which in turn enables APHIS to engage in swift, successful trace back investigations when infected swine are discovered.

Description of Respondents: Farms; Federal Government; State, Local or Tribal Government.

Number of Respondents: 30,050.

Frequency of Responses: Recordkeeping; Reporting: On occasion; Quarterly.

Total Burden Hours: 5,092.

Food and Nutrition Service

Title: Child Nutrition Database.

OMB Control Number: 0584–0494.

Summary of Collection: The Child Nutrition (CN) Database is a necessary component in implementation of USDA's Food and Nutrition Service (FNS) National School Lunch Program (NSLP) and School Breakfast Program (SBP): School Meals Initiative for Healthy Children final rule published in the June 13, 1995 **Federal Register**, Volume 60, No. 113. The overriding purpose in NSLP and SBP initiatives is to serve more nutritious and healthful meals to school children. FNS has updated the regulations which established the specific nutrition criteria for reimbursable school meals incorporating the Recommended Dietary Allowances (RDA) issued by the Food and Nutrition Board, Commission on Life Sciences, National Research Council for key nutrients, energy allowances for calories, and the most current nutritional standards as outlined in the Dietary Guidelines. FNS will collect information using a database that contains information on the nutritional composition.

Need and Use of the Information: FNS will collect information on (1) USDA commodities; (2) USDA Nutrient Database for Standard Reference food items which are used in the SBP and NSLP; (3) quantity recipes for school food service developed by USDA; and (4) brand name commercially processed foods. The information gathered for the CN Database is required to be used in software program approved by USDA for use in meeting the nutrient standards and nutrition goals of the Child Nutrition Program meal pattern. Both the States and program will use the information.

Description of Respondents: Business or other for-profit.

Number of Respondents: 75.

Frequency of Responses: Report: Other (as needed).

Total Burden Hours: 2500.

Grain Inspection, Packers and Stockyards Administration

Title: Guidelines for Preparation of Research Proposals.

OMB Control Number: 0580–0014.

Summary of Collection: The Grain Inspection, Packers and Stockyards Administration (GIPSA) is responsible for establishment of grain standards which accurately describe the quality of grain being traded and for the uniform application of these standards in a nationwide inspection system. GIPSA maintains an external research program under which research scientists are invited to submit research grant proposals aimed at developing methods to improve accuracy and uniformity in

grading grain. Research grant proposals must include the objectives of the proposed work; application of the proposed work to the grain inspection system; the procedures, equipment, personnel, etc., that will be used to reach the project objectives; the costs of the project, a schedule for completion; qualifications of the investigator and the grantee organization; and a listing of all other sources of financial support for the project. Grant proposals may be submitted to GIPSA at anytime; however, a formal Research Coordination Team reviews the proposals twice a year.

Need and Use of the Information: The information collected is used by GIPSA to determine the projects that would address the highest priority problems. The information is also critical for ensuring that the proposed projects are technically feasible and that the sponsoring organizations have the resources to support the project including personnel with the appropriate technical capabilities.

Description of Respondents: State, Local or Tribal Government; Business or other for-profit; Not-for-profit institutions.

Number of Respondents: 4.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 80.

Sondra A. Blakey,

Department Information Collection Clearance Officer.

[FR Doc. 02–2182 Filed 1–29–02; 8:45 am]

BILLING CODE 3410–01–M

DEPARTMENT OF AGRICULTURE

Forest Service

Post Fire Vegetation and Fuels Management Project, Beaverhead-Deerlodge National Forest, Beaverhead and Deerlodge Counties, MT

AGENCY: Forest Service, USDA.

ACTION: Notice, intent to prepare an environmental impact statement.

SUMMARY: The Forest Service will prepare an environmental impact statement to document the analysis and disclose the environmental impacts of proposed hazardous fuels reduction, bark beetle sanitation, and the maintenance and/or restoration of vegetative communities (willow bottoms, mature riparian spruce, and mature Douglas-fir) on approximately 1500 acres in the areas burned by the Mussigbrod and Middlefork fires of 2000 in the Beaverhead-Deerlodge National Forest. The project area is located within the Wisdom and Pintler Ranger Districts of the Beaverhead-Deerlodge National Forest in Beaverhead and Deerlodge Counties, Montana. The Mussigbrod fire complex burned approximately 59,000 acres within the Big Hole River watershed, including Trail, Prairie, Tie, Johnson, Bender, Mussigbrod, Plimpton, and Pintler Creeks. The Middle Fork fire complex burned approximately 18,000 acres in 11 areas in the Rock Creek watershed, including the Middle Fork, Rock Fork, and West Fork sub basins.

The decision to be made is the amount of hazardous fuels reduction, bark beetle sanitation (harvest and nonharvest methods), and willow regeneration treatments to implement.

DATES: Initial comments concerning the scope of the analysis should be received in writing no later than March 4, 2002.

ADDRESSES: The responsible official is Forest Supervisor Janette Kaiser, Beaverhead-Deerlodge National Forest, Dillon, Montana. Please send comments to Janette Kaiser, Beaverhead-Deerlodge National Forest, 420 Barrett Street, Dillon, MT 59725. Comments may be electronically submitted to *rl_b-d_comments@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Amy Nerbun, ID Team Leader, Beaverhead-Deerlodge National Forest, 420 Barrett Street, Dillon, MT 59725, or phone (406) 683–3948, or by e-mail to *anerbun@fs.fed.us.*

SUPPLEMENTARY INFORMATION: The purpose of this project is to reduce hazardous fuels, limit potential for extreme bark beetle damage in selected important areas, and promote willow regeneration in areas historically occupied by willow. Treatments are proposed on approximately 1400 acres in the Mussigbrod complex, and 100 acres in the Middle Fork complex.

Treatment activities would remove trees that pose fuels risk, pose the greatest risk to harboring beetle broods, and impede natural recovery of historic vegetative communities (i.e. willow bottoms). Treatment in roadless areas will be limited to use of anti-aggregation pheromones (such as MCH) to reduce the likelihood of beetle attacks.

Public participation is important to this analysis. Part of the goal of public involvement is to identify additional issues and to refine general issues. A scoping notice was mailed to the public on September 24, 2001. Twenty-eight responses were received Fifteen people/organizations provided written comments. Preliminary issues identified were:

1. Bark Beetle Risk. Bark beetle populations and beetle-caused tree mortality are expected to increase due to extensive areas of fire-stressed trees that provide ideal bark beetle habitat. There is a high probability that bark beetle populations will increase and expand and kill trees in unburned areas.

2. Continuous heavy fuel loads within the Mussigbrod fire area and adjacent to private lands influence the ability to control wildfire safely and effectively.

3. Historic vegetative composition and structure. Heavy fuels accumulation and bark beetle related tree mortality could impede maintenance and/or natural regeneration of suppressed willow, riparian spruce, and large-diameter Douglas-fir.

Many comments received during scoping centered on impacts to water quality, soils, and wildlife. Although theses issues were not identified as key issues (i.e. they did not drive an alternative), they did have bearing on the alternatives developed, and played a key role in the development of mitigation measures.

The interdisciplinary team developed four alternatives to the proposed action, which vary by the amounts and types of treatment proposed. The analysis will consider all reasonably foreseeable activities.

People may visit with Forest Service officials at any time during the analysis and prior to the decision. Two periods are specifically designated for comments on the analysis: (1) during the scoping process, and (2) during the draft EIS period.

During the scoping process, the Forest Service seeks additional information and comments from individuals or organizations that may be interested in or affected by the proposed action, and federal, and state, and local agencies. The Forest Service invites written comments and suggestions on this action, particularly in terms of issues and alternative development.

The draft EIS is anticipated to be available for review in March, 2002. The final EIS is planned for completion in June, 2002.

The Environmental Protection Agency will publish the Notice of Availability of the draft Environmental Impact Statement in the **Federal Register.** The Forest will also publish a legal notice of its availability in the Montana Standard Newspaper, Butte, Montana. A 45-day comment period on the draft EIS will begin the day after the legal notice is published.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact

statement must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519,553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

The responsible official will make the decision on this proposal after considering comments and responses, environmental consequences discussed in the final EIS, applicable laws, regulations, and policies. The decision and reasons for the decision will be documented in a Record of Decision.

Dated: January 23, 2002.

Peri Suenram,

Acting Forest Supervisor.

[FR Doc. 02–2181 Filed 1–29–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Inviting Preapplications for Technical Assistance for Rural Transportation Systems

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice.

SUMMARY: The Rural Business-Cooperative Service (RBS), an Agency within the Rural Development mission area, announces the availability of two individual grants; one single $500,000 grant from the passenger transportation funds appropriated for the RBS Rural Business Enterprise Grant (RBEG) program and another single $250,000 grant from the Federally Recognized Native American Tribes funds appropriated for RBS under the RBEG Program for Fiscal Year (FY) 2002. Each grant is to be competitively awarded to a qualified national organization. These grants are to provide technical assistance for rural transportation.

DATES: The deadline for receipt of preapplications in the Rural Development State Office is March 1, 2002. Preapplications received at a Rural Development State Office after that date would not be considered for FY 2002 funding.

ADDRESSES: For further information, entities wishing to apply for assistance should contact a Rural Development State Office to receive further information and copies of the preapplication package. Potential applicants located in the District of Columbia must send their preapplications to the National Office by the date indicated above.

District of Columbia

Rural Business-Cooperative Service, USDA, Specialty Lenders Division, Room 6867, 1400 Independence Avenue, SW., Washington, DC 20250–3225, (202) 720–1400.

A list of Rural Development State Offices follows:

Alabama

USDA Rural Development State Office, Sterling Center, Suite 601, 4121 Carmichael Road, Montgomery, AL 36106–3683, (334) 279–3400

Alaska

USDA Rural Development State Office, 800 West Evergreen, Suite 201, Palmer, AK 99645–6539, (907) 761–7705.

Arizona

USDA Rural Development State Office, 3003 North Central Avenue, Suite 900, Phoenix, AZ 85012–2906, (602) 280–8700.

Arkansas

USDA Rural Development State Office, 700 West Capitol Avenue, Room 3416, Little Rock, AR 72201–3225, (501) 301–3200.

California

USDA Rural Development State Office, 430 G Street, Agency 4169, Davis, CA 95616–4169, (530) 792–5800.

Colorado

USDA Rural Development State Office, 655 Parfet Street, Room E–100, Lakewood, CO 80215, (720) 544–2903.

Delaware-Maryland

USDA Rural Development State Office, P.O. Box 400, 4607 South DuPont Highway, Camden, DE 19934–9998, (302) 697–4300.

Florida/Virgin Islands

USDA Rural Development State Office, P.O. Box 147010, 4440 NW. 25th Place, Gainesville, FL 32606, (352) 338–3402.

Georgia

USDA Rural Development State Office, Stephens Federal Building 355 E. Hancock Avenue, Athens, GA 30601–2768, (706) 546–2162.

Hawaii

USDA Rural Development State Office, Federal Building, Room 311, 154 Waianuenue Avenue, Hilo, HI 96720, (808) 933–8380.

Idaho

USDA Rural Development State Office, 9173 West Barnes Dr., Suite A1, Boise, ID 83709, (208) 378–5600.

Illinois

USDA Rural Development State Office, 2118 West Park Court, Suite A, Champaign, IL 61821, (217) 403–6202.

Indiana

USDA Rural Development State Office, 5975 Lakeside Boulevard, Indianapolis, IN 46278, (317) 290–3100.

Iowa

USDA Rural Development State Office, Federal Building, Room 873, 210 Walnut Street, Des Moines, IA 50309–2196, (515) 284–4663.

Kansas

USDA Rural Development State Office, Suite 100, 1303 SW First American Place, Topeka, KS 66604, (785) 271–2700.

Kentucky

USDA Rural Development State Office 771 Corporate Drive, Suite 200, Lexington, KY 40503, (859) 224–7300.

Louisiana

USDA Rural Development State Office 3727 Government Street, Alexandria, LA 71302, (318) 473–7921.

Maine

USDA Rural Development State Office, P.O. Box 405, 967 Illinois Avenue, Suite 4, Bangor, ME 04402–0405, (207) 990–9106.

Massachusetts/Rhode Island/ Connecticut

USDA Rural Development State Office 451 West Street, Suite 2, Amherst, MA 01002–2999, (413) 253–4300.

Michigan

USDA Rural Development State Office 3001 Coolidge Road, Suite 200, East Lansing, MI 48823, (517) 324–5100.

Minnesota

USDA Rural Development State Office 410 AgriBank Building 375 Jackson Street, St. Paul, MN 55101–1853, (651) 602–7800.

Mississippi

USDA Rural Development State Office, Federal Building, Suite 831, 100 West Capitol Street, Jackson, MS 39269, (601) 965–4316.

Missouri

USDA Rural Development State Office 601 Business Loop 70 West, Parkade Center, Suite 235, Columbia, MO 65203, (573) 876–0976.

Montana

USDA Rural Development State Office, P.O. Box 771, 900 Technology Blvd., Unit 1, Suite B, Bozeman, MT 59715, (406) 585–2580.

Nebraska

USDA Rural Development State Office, Federal Building, Room 152, 100 Centennial Mall North, Lincoln, NE 68508, (402) 437–5551.

Nevada

USDA Rural Development State Office 1390 South Curry Street, Carson City, NV 89703–9910, (775) 887–1222.

New Jersey

USDA Rural Development State Office, Tarnsfield Plaza, Suite 22, 790 Woodlane Road, Mt. Holly, NJ 08060, (609) 265–3600.

New Mexico

USDA Rural Development State Office 6200 Jefferson Street, NE., Room 255, Albuquerque, NM 87109, (505) 761–4950.

New York

USDA Rural Development State Office, The Galleries of Syracuse 441 South Salina Street, Suite 357, Syracuse, NY 13202–2541, (315) 477–6400.

North Carolina

USDA Rural Development State Office 4405 Bland Road, Suite 260, Raleigh, NC 27609, (919) 873–2000.

North Dakota

USDA Rural Development State Office, P.O. Box 1737, Federal Building, Room 208, 220 East Rosser Avenue, Bismarck, ND 58502–1737, (701) 530–2037.

Ohio

USDA Rural Development State Office, Federal Building, Room 507, 200 North High Street, Columbus, OH 43215–2418, (614) 255–2500.

Oklahoma

USDA Rural Development State Office, 100 USDA, Suite 108,Stillwater, OK 74074–2654, (405) 742–1000.

Oregon

USDA Rural Development State Office, 101 SW Main Street, Suite 1410,Portland, OR 97204–3222, (503) 414–3300.

Pennsylvania

USDA Rural Development State Office, One Credit Union Place, Suite 330, Harrisburg, PA 17110–2996, (717) 237–2299.

Puerto Rico

USDA Rural Development State Office, 654 Munoz Rivera Avenue,IBM Plaza, Suite 601, Hato Rey, Puerto Rico 00918–6106, (787) 766–5095.

South Carolina

USDA Rural Development State Office, Strom Thurmond Federal Building, 1835 Assembly Street, Room 1007, Columbia, SC 29201, (803) 765–5163.

South Dakota

USDA Rural Development State Office, Federal Building, Room 210, 200 4th Street, SW., Huron, SD 57350, (605) 352–1100.

Tennessee

USDA Rural Development State Office, 3322 West End Avenue, Suite 300,Nashville, TN 37203–1084, (615) 783–1300.

Texas

USDA Rural Development State Office, Federal Building, Suite 102, 101 South Main Street, Temple, TX 76501, (254) 742–9700.

Utah

USDA Rural Development State Office, Wallace F. Bennett Federal Building, 125 South State Street, Room 4311, P.O. Box 11350, Salt Lake City, UT 84147–0350, (801) 524–4321.

Vermont/New Hampshire

USDA Rural Development State Office, City Center, 3rd Floor, 89 Main Street, Montpelier, VT 05602, (802) 828–6010.

Virginia

USDA Rural Development State Office, Culpeper Building, Suite 238,1606 Santa Rosa Road, Richmond, VA 23229–5014, (804) 287–1550.

Washington

USDA Rural Development State Office, 1835 Black Lake Boulevard, SW.,Suite B, Olympia, WA 98512–5715, (360) 704–7740.

West Virginia

USDA Rural Development State Office, Federal Building, 75 High Street, Room 320, Morgantown, WV 26505–7500, (304) 284–4860.

Wisconsin

USDA Rural Development State Office, 4949 Kirschling Court, Stevens Point, WI 54481, (715) 345–7610.

Wyoming

USDA Rural Development State Office, Federal Building, Room 1005, 100 East B Street, P.O. Box 820, Casper, WY 82602, (307) 261–6300.

SUPPLEMENTARY INFORMATION: The passenger transportation portion of the RBEG program is authorized by section 310B(c)(2) of the Consolidated Farm and Rural Development Act (CONACT) (7 U.S.C. 1932(c)(2)). The RBEG program is administered on behalf of RBS at the state level by the Rural Development State Offices. The primary objective of the program is to improve the economic conditions of rural areas. Assistance provided to rural areas under this program may include on-site technical assistance to local and regional governments, public transit agencies, and related nonprofit and for-profit organizations in rural areas; the development of training materials; and the provision of necessary training assistance to local officials and agencies in rural areas.

Awards under the RBEG passenger transportation program are made on a competitive basis to a qualified national organization using specific selection criteria contained in 7 CFR part 1942, subpart G, and in accordance with section 310B(c)(2) of the CONACT. 7

CFR part 1942, subpart G, also contains the information required to be in the preapplication package. For the $250,000 grant, at least 75 percent of the benefits of the project must be received by members of Federally Recognized Tribes. The project that scores the greatest number of points based on the selection criteria will be selected for each grant. Preapplications will be tentatively scored by the State Offices and submitted to the National Office for review, final scoring, and selection.

To be considered ''national'', a qualified organization is required to provide evidence that it operates in multi-state areas. There is not a requirement to use the grant funds in a multi-state area. Under this notice, grants will be made to qualified private non-profit organizations for the provision of technical assistance and training to rural communities for the purpose of improving passenger transportation services or facilities. Public bodies are not eligible for passenger transportation RBEG grants.

The information collection requirements of the RBEG program (7 CFR part 1942, subpart G) have received clearance by the Office of Management and Budget (OMB) under OMB Control Number 0570–0022.

Fiscal Year 2002 Preapplications Submission

Each preapplication received in a Rural Development State Office will be reviewed to determine if this preapplication is consistent with the eligible purposes contained in section 310B(c)(2) of the CONACT. Each selection priority criterion outlined in 7 CFR part 1942, subpart G, section 1942.305(b)(3), must be addressed in the preapplication. Failure to address any of the criteria will result in a zero-point score for that criterion and will impact the overall evaluation of the preapplication. Copies of 7 CFR part 1942, subpart G, will be provided to any interested applicant making a request to a Rural Development State Office listed in this notice. All projects to receive technical assistance through these passenger transportation grant funds are to be identified when the preapplications are submitted to the Rural Development State Office. Multiple project preapplications must identify each individual project, indicate the amount of funding requested for each individual project, and address the criteria as stated above for each individual project. For multiple-project preapplications, the average of the individual project scores will be the score for that preapplication.

All eligible preapplications, along with tentative scoring sheets and the Rural Development State Director's recommendation, will be referred to the National Office no later than April 12, 2002, for final scoring and selection for award.

The National Office will score preapplications based on the grant selection criteria and weights contained in 7 CFR part 1942, subpart G, and will select a grantee subject to the grantee's satisfactory submission of a formal application and related materials in the manner and time frame established by RBS in accordance with 7 CFR part 1942, subpart G. It is anticipated that the grantees will be selected by June 3, 2002. All applicants will be notified by RBS of the Agency decision on the award.

Dated: January 16, 2002.

William F. Hagy III,

Acting Administrator, Rural Business-Cooperative Service.

[FR Doc. 02–2169 Filed 1–29–02; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Information Systems Technical Advisory Committee; Notice of Partically Closed Meeting

The Information Systems Technical Advisory Committee (ISTAC) will meet on February 14 & 15, 2002, 9:00 a.m., at the Space and Naval Warfare Systems Center (SSC), Point Loma, San Diego, California. The ISTAC advised the Office of the Assistant Secretary for Export Administration on technical questions that affect the level of export controls applicable to information systems equipment and technology.

Agenda

February 14

Public Session

1. Opening remarks and introductions.

2. Comments or presentations from the public.

3. SSC Information Assurance Project.

4. Introduction to Third Generation Input/Output (3GIO).

5. Trusted Computing Platform Alliance.

6. Department of Defense Software Protection Initiative.

7. Review of Computer-Aided Design (CAD) software controls.

February 14–15

Closed Session

8. Discussion of matters properly classified under Executive Order 12958, dealing with U.S. export control programs and strategic criteria related thereto.

A limited number of seats will be available for the public session. Reservations are not accepted. To the extent time permits, members of the public may present oral statements to the ISTAC. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the ISTAC suggests that public presentation materials or comments be forwarded before the meeting to the address listed below:

Ms. Lee Ann Carpenter, OSIES/EA/BXA, MS: 3876, U.S. Department of Commerce, 14th St. & Constitution Ave., NW., Washington, DC 20230

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 7, 2001, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of the Committee and of any Subcommittees thereof dealing with the classified materials listed in 5 U.S.C. 552(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and (a)(3) of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of this Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6020, U.S. Department of Commerce, Washington, DC. For more information or copies of the minutes call Lee Ann Carpenter, 202–482–2583.

Dated: January 22, 2002.

Lee Ann Carpenter,

Committee Liaison Officer.

[FR Doc. 02–2264 Filed 1–29–02; 8:45 am]

BILLING CODE 3510–JT–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1205]

Grant of Authority for Subzone Status; Northrop Grumman Corporation—Defense Systems Division (Radar and Electro-Optical Systems), Rolling Meadows, IL

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones Act provides for ''* * * the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and when the activity results in a significant public benefit and is in the public interest;

Whereas, the Illinois International Port District, grantee of Foreign-Trade Zone 22, has made application to the Board for authority to establish special-purpose subzone status at the manufacturing facilities (radar and electro-optical systems) of Northrop Grumman Corporation—Defense Systems Division, located in Rolling Meadows, Illinois (FTZ Docket 59–2000, filed 11/15/2000);

Whereas, notice inviting public comment has been given in the **Federal Register** (65 FR 71297, 11/30/2000); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that approval of the application would be in the public interest;

Now, Therefore, the Board hereby grants authority for subzone status at the radar and electro-optical systems manufacturing facilities of Northrop Grumman Corporation—Defense Systems Division located in Rolling Meadows, Illinois (Subzone 22M), at the location described in the application, subject to the FTZ Act and the Board's regulations, including section 400.28.

Signed at Washington, DC, this 15th day of January, 2002.

Faryar Shirzad,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 02–2256 Filed 1–29–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1204]

Expansion of Foreign-Trade Zone 29;Louisville, KY, Area

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Louisville and Jefferson County Riverport Authority, grantee of Foreign-Trade Zone 29, submitted an application to the Board for authority to include an additional site at the Cedar Grove Business Park (Site 6) in Bullitt County, Kentucky, adjacent to the Louisville Customs port of entry (FTZ Docket 23–2001; filed 6/7/01);

Whereas, notice inviting public comment was given in the **Federal Register** (66 FR 32599, 6/15/01) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that the proposal is in the public interest;

Now, therefore, the Board hereby orders:

The application to expand FTZ 29 is approved, subject to the Act and the Board's regulations, including Section 400.28, and further to the Board's standard 2,000-acre activation limit for the overall zone project.

Signed at Washington, DC, this 15th day of January 2002.

Faryar Shirzad,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

[FR Doc. 02–2255 Filed 1–29–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1206]

Grant of Authority for Subzone Status; C&J Clark America, Inc. Distribution Facility (Footwear), Hanover, PA

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones Act provides for ''* * * the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved; and when the activity results in a significant public benefit and is in the public interest;

Whereas, the Foreign-Trade Zone Corporation of Southeastern Pennsylvania, grantee of Foreign-Trade Zone 147, has made application to the Board for authority to establish special-purpose subzone status at the footwear distribution facility of C&J Clark America, Inc. in Hanover, Pennsylvania (FTZ Docket 11–2001, filed February 15, 2001);

Whereas, notice inviting public comment has been given in the **Federal Register** (66 FR 12459, 2/27/01; and amended 66 FR 41500, 8/8/01); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that approval of the application, as amended, is in the public interest;

Now, Therefore, the Board hereby grants authority for subzone status at the of footwear distribution facility of C&J Clark America, Inc., located in Hanover, Pennsylvania (Subzone 147A), at the location described in the application, as amended, subject to the FTZ Act and the Board's regulations, including section 400.28.

Signed at Washington, DC, this 18th day of January, 2002.

Faryar Shirzad,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 02–2257 Filed 1–29–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 6–2002]

Foreign-Trade Zone 165—Midland, TX; Expansion of Manufacturing Authority—Subzone 165A; Phillips Petroleum Company, (Oil Refinery Complex), Borger, TX

An application has been submitted to the Foreign-Trade Zones Board (the Board) by Phillips Petroleum Company (Phillips), requesting authority to expand the scope of manufacturing activity conducted under zone procedures within Subzone 165A at the Phillips oil refinery complex in Borger, Texas. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on January 22, 2002.

Subzone 165A (130,000 BPD capacity) was approved in December 2000, subject to the Board's standard oil refinery subzone restrictions, and is located at two sites in Borger, Texas: Site 1 (6,045 acres)—main refinery complex, located at Spur 119 North, Borger; Site 2 (585 acres)—crude oil tank farm, located on Highway 136, Borger, 5 miles north of the main refinery complex. Authority was granted for the manufacture of fuel products and certain petrochemical feedstocks and refinery by-products (Board Order 1134, 65 FR 82322, 12/28/00).

The refinery is used to produce fuels and petrochemical feedstocks. The request involves a debottlenecking and expansion project which includes the construction of a crude fractionating tower within Site 1. The new facilities will increase the overall capacity of the refinery to 150,000 BPD. The feedstocks used and product slate will remain unchanged.

Zone procedures would exempt the new refinery facilities from Customs duty payments on the foreign products used in its exports. On domestic sales, the company would be able to choose the Customs duty rates for certain petrochemical feedstocks (duty-free) by admitting foreign crude oil in non-privileged foreign status. The application indicates that any additional savings from zone procedures would help improve the refinery's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ staff has been appointed examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at one of the following addresses:

1. Submissions Via Express/Package Delivery Services: Foreign-Trade-Zones Board, U.S. Department of Commerce, Franklin Court Building—Suite 4100W, 1099 14th St. NW., Washington, DC 20005; or

2. Submissions Via the U.S. Postal Service: Foreign-Trade-Zones Board, U.S. Department of Commerce, FCB—Suite 4100W, 1401 Constitution Ave. NW., Washington, DC 20230.The closing period for their receipt is April 1, 2002. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to April 15, 2002.

A copy of the application and accompanying exhibits will be available for public inspection at the Office of the Foreign-Trade Zones Board's Executive Secretary at the first address listed above, and at the U.S. Customs Service, 10801 Airport Blvd., Amarillo, TX 79111.

Dated: January 22, 2002.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 02–2254 Filed 1–29–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–831]

Notice of Correction to the Extension of Time Limit for the Final Results of Antidumping New Shipper Review and the Final Results of Antidumping Administrative Review of the Antidumping Duty Order on Fresh Garlic from the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Correction of extension of time limit for the final results of antidumping new shipper review and the final results of antidumping administrative review.

SUMMARY: The Department of Commerce published an extension of time limit for the final results of antidumping new shipper review and final results of antidumping administrative review on fresh garlic from the People's Republic from China (December 27, 2001, 66 FR 66872).

The new shipper review covers one exporter, Clipper Manufacturing Co. Ltd. The period of review is June 1, 2000, through November 30, 2000. The administrative review covers four manufacturers/exporters and the period November 1, 1999, through October 31, 2000. The extension notice incorrectly identified the date for issuance of the final results as February 2, 2002. The correct date for issuance is February 20, 2002.

EFFECTIVE DATE: January 30, 2002.

FOR FURTHER INFORMATION CONTACT: Hermes Pinilla or Edythe Artman, AD/CVD Enforcement 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–3477 or (202) 482–3931, respectively.

This determination and notice are in accordance with section 751(a)(3)(A) of the Act.

January 24, 2002

Richard W. Moreland,

Deputy Assistant Secretary for AD/CVD Enforcement I.

[FR Doc. 02–2252 Filed 1–29–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–836]

Live Processed Blue Mussels from Canada: Notice of Termination of Antidumping Investigation

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of termination of antidumping investigation for the period April 1, 2000 through March 31, 2001.

SUMMARY: On April 6, 2001, the Department of Commerce (the Department) initiated an antidumping investigation of live processed blue mussels from Canada. See Notice of Initiation of Antidumping Investigation: Live Processed Blue Mussels From

Canada, 66 FR 18227 (April 6, 2001). The Department is terminating this investigation after receiving a timely withdrawal of the petition from the petitioner.

EFFECTIVE DATE: January 30, 2002.

FOR FURTHER INFORMATION CONTACT: Thomas F. Futtner or Paige Rivas, AD/CVD Enforcement, Group II, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–3814 or (202) 482–0651, respectively; fax (202) 482–5105.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions in effect as of January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations as codified at 19 CFR part 351 (2001).

Background

On March 12, 2001, the Department received a petition from Great Eastern Mussel Farms, Inc. (Great Eastern) alleging that live processed blue mussels from Canada were being sold, or were likely to be sold, in the United States at less than fair value. On April 6, 2001, the Department initiated an antidumping investigation of live processed blue mussels from Canada for the period April 1, 2000 through March 31, 2002 in order to determine whether merchandise imported into the United States is being sold at dumped prices. On October 18, 2001, the Department published in the Federal Register a notice of preliminary determination of sales at less than fair. See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Live Processed Blue Mussels from, 66 FR 52888 (October 18, 2001). On January 7, 2002, Great Eastern withdrew its petition citing improved market conditions.

Termination of the Antidumping Investigation

Pursuant to 19 CFR 351.207(b)(1), the Department may terminate an investigation upon withdrawal of the petition by the petitioner provided that the termination of the investigation is in the public interest. We contacted all interested parties to the investigation and notified them in writing of our intent to terminate the investigation and informed them that they had seven days in which to comment on this termination. No domestic interested party has objected to termination of this investigation. As no domestic interested party objects to this termination and the Department is not aware of evidence to the contrary, the Department finds that termination of this investigation is in the public interest. As such, we are terminating this antidumping investigation and will issue instructions directly to the U.S. Customs Service to terminate the suspension of subject merchandise.

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination and notice are in accordance with section 734(a) of the Act and section 19 CFR 351.207(b) of the Department's regulations.

January 24, 2002

Faryar Shirzad,

Assistant Secretaryfor Import Administration.

[FR Doc. 02–2251 Filed 1–29–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 A.M. and 5 P.M. in Suite 4100W, U.S. Department of Commerce, Franklin Court Building, 1099 14th Street, NW, Washington, DC.

Docket Number: 01–023. Applicant: University of Georgia, 151 Barrow Hall, Electron Microscopy Laboratory, Athens, GA 30602–2403. Instrument: Electron Microscope, Model Tecnai 20. Manufacturer: FEI Company, The Netherlands. Intended Use: The instrument is intended to be used to study the structure of biological materials in three dimensions including components of cells such as organelles or filaments, whole cells (i.e. bacteria), large molecules and crystals. The general goal of these investigations is to achieve a detailed understanding of the 3-dimensional structure of some cellular component, which in turn can be used to increase understanding of the function of that component. In addition, the instrument will be used in the courses: CBIO(BIOL) 3410L. Laboratory in Cellular and Developmental Biology, (CBIO)BIOL 5050L/7050L. Electron Microscopy Laboratory, and CBIO 8050–8050L. Techniques in Modern Microscopy. Application accepted by Commissioner of Customs: October 22, 2001.

Docket Number: 01–025. Applicant: University of Illinois at Urbana-Champaign, 207 Henry Administration Building, 506 South Wright Street, Urbana, IL 61801. Instrument: QPix Colony Picker with Gridding and Re-arraying packages. Manufacturer: Genetix Limited, United Kingdom. Intended Use: The instrument is a robot that performs steps of selecting certain cells amongst a large number of others and transferring them to other devices for further investigation. It is intended to be used for research and education of genomics including the study of honey bees, cattle and salmonella. Application accepted by Commissioner of Customs: November 23, 2001.

Gerald A. Zerdy,

Program Manager, Statutory Import Programs Staff.

[FR Doc. 02–2253 Filed 1–29–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

ENVIRONMENTAL PROTECTION AGENCY

Coastal Nonpoint Pollution Control Program: Approval Decisions on Delaware and United States Virgin Islands Coastal Nonpoint Pollution Control Programs

AGENCY: National Oceanic and Atmospheric Administration, U.S.

Department of Commerce, and The U.S. Environmental Protection Agency.

ACTION: Notice of intent to approve the Delaware and United States Virgin Islands coastal nonpoint programs.

SUMMARY: Notice is hereby given of the intent to fully approve the Delaware and United States Virgin Islands Coastal Nonpoint Pollution Control Programs (coastal nonpoint programs) and of the availability of the draft Approval Decisions on conditions for the Delaware and United States Virgin Islands coastal nonpoint programs. Section 6217 of the Coastal Zone Act Reauthorization Amendments (CZARA), 16 U.S.C. 1455b, requires states and territories with coastal zone management programs that have received approval under section 306 of the Coastal Zone Management Act to develop and implement coastal nonpoint programs. Coastal states and territories were required to submit their coastal nonpoint programs to the National Oceanic and Atmospheric Administration (NOAA) and the U.S. Environmental Protection Agency (EPA) for approval in July 1995. NOAA and EPA conditionally approved the Delaware coastal nonpoint program on October 3, 1997 and the United States Virgin Islands coastal nonpoint program on November 18, 1997. NOAA and EPA have drafted approval decisions describing how Delaware and the United States Virgin Islands have satisfied the conditions placed on their programs and therefore have fully approved coastal nonpoint programs.

NOAA and EPA are making the draft decisions for the Delaware and United States Virgin Islands coastal nonpoint programs available for 30-day public comment periods. If no comments are received, the Delaware and United States Virgin Islands programs will be approved. If comments are received, NOAA and EPA will consider whether such comments are significant enough to affect the decision to fully approve the programs.

Copies of the draft Approval Decisions can be found on the NOAA Web site at *http://www.ocrm.nos.noaa.gov/czm/6217/* or may be obtained upon request from: Joseph P. Flanagan, Coastal Programs Division (N/ORM3), Office of Ocean and Coastal Resource Management, NOS, NOAA, 1305 East-West Highway, Silver Spring, Maryland, 20910, tel. 301–713–3155, extension 201, e-mail *joseph.flanagan@noaa.gov.*

DATES: Individuals or organizations wishing to submit comments on the draft Approval Decisions should do so by March 1, 2002.

ADDRESSES: Comments should be made to John King, Acting Chief, Coastal Programs Division (N/ORM3), Office of Ocean and Coastal Resource Management, NOS, NOAA, 1305 East-West Highway, Silver Spring, Maryland, tel. 301–713–3155 extension 195, e-mail *john.king@noaa.go* or, for Delaware, Agnes White, tel. 215–814–5728, e-mail *white.agnes@epa.gov,* EPA Region 3, 1650 Arch Street, Philadelphia, Pennsylvania, 19103–2029; for United States Virgin Islands, to Donna Somboonlakana, tel. 212–637–3700, e-mail *somboonlakana.donna@epa.gov,* EPA Region 2, 290 Broadway, New York, New York, 10007–1866.

FOR FURTHER INFORMATION CONTACT: For Delaware, Joelle Gore, Coastal Programs Division (N/ORM3), Office of Ocean and Coastal Resource Management, NOS, NOAA, 1305 East-West Highway, Silver Spring, Maryland 20910, tel. 301–713–3155, extension 177, e-mail *joelle.gore@noaa.gov;* for United States Virgin Islands, Jewel Griffin-Linzey, Coastal Programs Division (N/ORM3), Office of Ocean and Coastal Resource Management, NOS, NOAA, 1305 East-West Highway, Silver Spring, Maryland, 20910, tel. 301–713–3155, extension 163, e-mail *jewel.griffin-linzey@noaa.gov.*

(Federal Domestic Assistance Catalog 11.419 Coastal Zone Management Program Administration)

Dated: January 25, 2002.

Margaret A. Davidson,

Acting Assistant Administrator for Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration.

Diane C. Regas,

Deputy Assistant Administrator, Office of Water, Environmental Protection Agency.

[FR Doc. 02–2265 Filed 1–29–02; 8:45 am]

BILLING CODE 3510–08–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 012402C]

New England Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The New England Fishery Management Council and Mid-Atlantic Council (Councils) are scheduling a public meeting of their joint Monkfish Oversight Committee and Advisory Panel in February, 2002 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from these groups will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The joint meeting will be held on Tuesday, February 12, 2002 and the committee meeting will be held Wednesday, February 13, 2002. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meeting will be held at the Sheraton Ferncroft, 50 Ferncroft Road, Danvers, MA 01923; telephone: (978) 777–2500.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Meeting Date and Agenda

Tuesday, February 12, 2002 at 10:00 a.m. and Wednesday, February 13, 2002 at 9:30 a.m.

Tuesday's joint meeting Agenda: The Advisory Panel will elect a chair. The Committee and Advisors will review the Amendment 2 purpose and need, timeline, stock status and management advice from SAW 34, PDT recommendations and scoping comments on Amendment 2 to the Monkfish Fishery Management Plan (FMP). Advisors will provide the Committee with initial comments and recommendations for measures to be considered in Amendment 2. Items to be considered are covered in the Amendment 2 scoping document.

Wednesday's committee meeting agenda: The Committee will outline Amendment 2 goals and objectives and provide guidance to the PDT on the analysis needed to develop management alternatives. The Committee will also set a meeting schedule to enable the completion of timeline milestones, particularly finalization of alternatives to be considered by the Council for inclusion in the Draft Supplemental Environmental Impact Statement at the May Council meeting.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically

listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: January 25, 2002.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 02–2262 Filed 1–29–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 012402D]

New England Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Habitat Oversight Committee and Skate Oversight Committee and Advisory Panel in February, 2002. Recommendations from these groups will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meetings will held on February 14, 2002 and February, 25, 2002.

ADDRESSES: The meetings will be held in Mansfield and Danvers, MA.

Council address: New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Meeting Dates and Agendas

Thursday, February 14, 2002, at 9:30 a.m.—Habitat Oversight Committee Meeting.

Location: Holiday Inn, 31 Hampshire Street, Mansfield, MA 02048; telephone: (508) 339–2200.

The Committee will review alternatives for designating essential fish habitat (EFH) for the skate species complex and meeting the required habitat-related provisions of the Magnuson-Stevens Act, to be incorporated in the proposed Skate Fishery Management Plan (FMP). The Committee may select preferred alternatives to recommend to the full Council. The Committee will also review technical advice and options developed by the Council's EFH Technical Team, Groundfish Plan Development Team (PDT), and Scallop PDT on ways to comply with the habitat-related provisions of the Magnuson-Stevens Act in Amendment 10 to the Sea Scallop FMP. The Committee may develop additional options to be considered by the Council, and they may develop recommendations as to which of the options developed by the PDTs should be fully analyzed in the Amendment 10 Draft Environmental Impact Statement.

Monday, February 25, 2002 at 9:30 a.m.—Joint Skate Oversight Committee and Advisory Panel Meeting.

Location: Sheraton Ferncroft, 50 Ferncroft Road, Danvers, MA 01923; telephone: (978) 777–2500.

The committee and advisory panel will review and approve Draft Skate FMP and Environmental Impact Statement (EIS) and select preferred alternatives for public hearings. Also on the agenda is the review and approval of the Draft Skate FMP Public Hearing Document. They will also review timeline and schedule for Skate FMP public hearings.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: January 25, 2002.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 02–2263 Filed 1–29–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 121901C]

Permits; Foreign Fishing; Correction

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of receipt of foreign fishing applications; correction.

SUMMARY: NMFS published for public review and comment a summary of applications submitted by the Government of the Russian Federation requesting authorization to conduct fishing operations in the U.S. Exclusive Economic Zone in 2002 under provisions of the Magnuson-Stevens Fishery Conservation and Management Act. The document contained incorrect dates.

FOR FURTHER INFORMATION CONTACT: Robert A. Dickinson, Office of Sustainable Fisheries, (301) 713–2276.

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of December 28, 2001, in FR Doc. 01–31975, make the following corrections:

1. On page 67228, in the third column, under the heading, **SUPPLEMENTARY INFORMATION**, in the fifth line of the second paragraph, ''(JV) operations in 2001'' should read ''(JV) operations in 2002.''

2. On page 67229, in the first column, in the fifth line, ''vessels in 2001.'' should read ''vessels in 2002.''

Dated: January 24, 2002.

Jonathan M. Kurland,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 02–2260 Filed 1–29–02; 8:45 am]

BILLING CODE 3510–22–S

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Privacy Act of 1974, as Amended; System of Records

AGENCY: Corporation for National and Community Service.

ACTION: Notice of amended system of records.

SUMMARY: Notice is hereby given that in accordance with the Privacy Act of 1974, as amended, 5 U.S.C. 552a(e)(4), (''the Act''), the Corporation for National and Community Service hereby publishes a notice of its amended system of records due to minor changes to the current system of records as set forth below. Title 5 U.S.C. 552a(e)(4) and (11) provides that the public be given 30 days to comment on the amended system of records. The Office of Management and Budget (OMB), which has oversight responsibilities under the Privacy Act, requires 40 days to conclude its review of the amended system of records.

EFFECTIVE DATES: The proposed changes will be effective without further notice on March 14, 2002, unless comments are received which result in a contrary determination.

ADDRESSES: Comments should be addressed to the Corporation for National and Community Service, Office of Administrative and Management Services, Attn: Denise Moss, Corporation Records Liaison Officer, 1201 New York Avenue, NW., Washington, DC, 20525.

FOR FURTHER INFORMATION CONTACT: Denise Moss, Corporation Records Liaison Officer, 202–606–5000, extension 384. A copy of this amended system of records may be obtained in an alternate format by calling: TDD, 202–606–5256, or by writing to the Corporation for National and Community Service, Office of Administrative and Management Services, Attn: Corporation Records Liaison Officer, 1201 New York Avenue, NW., Washington, DC, 20525.

SUPPLEMENTARY INFORMATION: The Corporation publishes the following notice of its system of records: Notice of System of Records—Preliminary Statement.

Corporation—when used in the notice refers to Corporation for National and Community Service.

AmeriCorps—when used in the notice refers to the Volunteers In Service To America (VISTA) program, the National Civilian Community Corps (NCCC) program, the Leaders program, or the state and national program.

Operating Units—The names of the operating units within the Corporation to which a particular system of records pertains are listed under the system manager and address section of each system notice.

Official Personnel Files—Official personnel files of Federal employees in the General Schedule and the Corporation's Alternative Personnel System, in the custody of the Corporation are considered the property of the Office of Personnel Management (OPM). Access to such files shall be in accordance with such notices published by OPM. Access to such files in the custody of the Corporation will be granted to individuals to whom such files pertain upon request to the Corporation for National and Community Service, Director, Human Resources, 1201 New York Avenue, NW., Washington, DC, 20525.

Various offices in the Corporation maintain files which contain copies of miscellaneous personnel material affecting Corporation employees. These include copies of standard personnel forms, evaluation forms, etc. These files are kept only for immediate office reference and are considered by the Corporation to be part of the personnel file system. The Corporation's internal policy provides that such information is a part of the general personnel files and can be disclosed only through the Director, Human Resources, in order that he or she may ensure that any material to be disclosed is relevant, current, and fair to the individual employees. Also, it is the policy of the Corporation to limit the use of such files and to encourage the destruction of as many as possible.

Description of changes: Changes made to the Corporation's system of records are considered to be minor in nature consisting of several address updates. Other changes are purely technical in nature consisting of: (1) Descriptive changes from ''member'' to ''he/she''; (2) Inclusion of field records at Service Centers, State Offices, and NCCC Campus locations in the Categories sections of Corporation 7; (3) Clarification of Categories of Records and routine uses for records listed in Corporation 5, 6, 11, and 14.

Statement of General Routine Uses—The following general routine uses are incorporated by this reference into each system of records set forth herein, unless specifically limited in the system description.

1. In the event that a record in a system of records maintained by the Corporation indicates, either by itself or in combination with other information in the Corporation's possession, a violation or potential violation of the law (whether civil, criminal, or regulatory in nature, and whether arising by statute or by regulation, rule or order issued pursuant thereto), that record may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation, or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto. Such referral shall include, and be deemed to authorize: (1) Any and all appropriate and necessary uses of such records in a court of law or before an administrative board or hearing; and (2) such other interagency referrals as may be necessary to carry out the receiving agencies' assigned law enforcement duties.

2. A record may be disclosed as a routine use to designated officers and employees of other agencies and departments of the Federal government having an interest in the individual for employment purposes including the hiring or retention of any employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter involved, provided, however, that other than information furnished for the issuance of authorized security clearances, information divulged hereunder as to full-time volunteers under Title I of the Domestic Volunteer Service Act of 1973, as amended (42 U.S.C. 4951), and the National and Community Service Act of 1990, as amended, shall be limited to the provision of dates of service and a standard description of service as heretofore provided by the Corporation.

3. A record may be disclosed as a routine use in the course of presenting evidence to a court, magistrate or administrative tribunal of appropriate jurisdiction and such disclosure may include disclosures to opposing counsel in the course of settlement negotiations.

4. A record may be disclosed as a routine use to a member of Congress, or staff acting upon the constituent's behalf, when the member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

5. Information from certain systems of records, especially those relating to applicants for Federal employment or volunteer service, may be disclosed as a routine use to designated officers and employees of other agencies of the Federal government for the purpose of obtaining information as to suitability qualifications and loyalty to the United States Government.

6. Information from a system of records may be disclosed to any source from which information is requested in the course of an investigation to the extent necessary to identify the

individual, inform the source of the nature and purpose of the investigation, and to identify the type of information requested.

7. Information in any system of records may be used as a data source, for management information, for the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related personnel management functions or manpower studies. Information may also be disclosed to respond to general requests for statistical information (without personal identification of individuals) under the Freedom of Information Act.

8. A record from any system of records may be disclosed as a routine use of the National Archives and Records Administration in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

9. A record may be disclosed to a Federal or state grand jury agent pursuant to a Federal or state grand jury subpoena or prosecution request that such record be released for the purpose of its introduction to a grand jury.

10. A record may be referred to suspension/debarment authorities, internal to the Corporation, when the record released is germane to a determination of the propriety or necessity for a suspension or debarment action.

11. A record may be disclosed to a contractor, grantee or other recipient of Federal funds when the record to be released reflects serious inadequacies with the recipient's personnel, and disclosure of the record is for the purpose of permitting the recipient to effect corrective action in the Government's best interests.

12. A record may be disclosed to a contractor, grantee or other recipient of Federal funds when the recipient has incurred an indebtedness to the Government through its receipt of Government funds, and release of the record is for the purpose of allowing the debtor to effect a collection against a third party.

13. Information in a system of records may be disclosed to ''Consumer reporting agencies'' (as defined in the Fair Credit Reporting Act, 14 U.S.C. 1681a(f), or the Federal Claims Collection Act of 1966, 31 U.S.C. 3701(a)(3)), the U.S. Department of the Treasury or other Federal agencies maintaining debt servicing centers, and to private collection contractors as a routine use for the purpose of collecting a debt owed to the Federal government as provided in regulations promulgated by the Corporation.

14. The names, social security numbers, home addresses, dates of birth, dates of hire, quarterly earnings, employer identifying information, and State of hire of employees may be disclosed to the: (a) Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services Federal Parent Locator System (FPLS), and Federal Tax Offset System for use in locating individuals and identifying their income sources to establish paternity, establishing and modifying orders of child support, identifying sources of income, and for other child support enforcement action; (b) Office of Child Support Enforcement for release to the Social Security Administration for verifying social security numbers in connection with the operation of the FPLS by the Office of Child Support Enforcement; and (3) Office of Child Support Enforcement for release to the U.S. Department of the Treasury for payroll and savings bonds and other deduction purposes, and for purposes of administering the Earned Income Tax Credit Program (Section 32, Internal Revenue Code of 1986), and verifying a claim with respect to employment on a tax return, as required by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub.L. 104–193).

15. A record may be disclosed as a routine use to a contractor, expert, or consultant of the Corporation (or an office within the Corporation) when the purpose of the release is in order to perform a survey, audit, or other review of the Corporation's procedures and operations.

Locations of Corporation Service Centers/State Offices—The Corporation maintains five Service Centers with State Offices within their service areas. The Services Centers, their addresses, and the States within their service areas are listed below. In the event of any doubt as to whether a record is maintained in a Service Center or State Office, a query should be directed to the address of the Service Center Director for the appropriate state under their jurisdiction where the volunteer performed their service as listed below. The Service Center Director shall furnish all assistance necessary to locate a specified record.

Atlantic Service Center, 801 Arch Street, Suite 103, Philadelphia, PA 19107–2416 (Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Puerto Rico, Rhode Island, Vermont, and the Virgin Islands).

Southern Service Center, 60 Forsyth, Street SW, Suite. 3M40, Atlanta, GA 30303–3201 (Alabama, District of Columbia, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia).

North Central Service Center, Metcalfe Bldg., 77 West Jackson Blvd., Suite 442, Chicago, IL 60604–3511 (Illinois, Indiana, Iowa, Michigan, Minnesota, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin).

Southwest Service Center, 1999 Bryan Street, Suite 2050, Dallas, TX 75201 (Arizona, Arkansas, Colorado, Kansas, Louisiana, Missouri, New Mexico, Oklahoma, and Texas).

Pacific Service Center, 2201 Broadway, Suite 510, Oakland CA 94612–3024 (Alaska, American Samoa, California, Guam, Hawaii, Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming).

Notification—Individuals may inquire whether any system of records contains information pertaining to them by addressing the request to the specific Records Liaison Officer for each file category in writing. Such request should include the name and address of the individual, his or her social security number, any relevant data concerning the information sought, and, where possible, the place of assignment or employment, etc. In case of any doubt as to which system contains a record, interested individuals should contact the Corporation for National and Community Service, Office of Administrative and Management Services, Attn: Records Liaison Officer, 1201 New York Avenue, NW, Washington, DC, 20525, which has overall supervision of records systems and will provide assistance in locating and/or identifying appropriate systems.

Access and Contest—In response to a written request by an individual, the appropriate Records Liaison Officer will arrange for access to the requested record or advise the requester if no record exists. If an individual wishes to contest the content of any record, he or she may do so by addressing a written request to the State Program Director in the state where the member performed their assigned duties. If the State Program Director determines that a request to amend an individual's record should be denied, the State Program Director shall provide all necessary information regarding the request to the Privacy Act Officer, who is the Corporation's initial denial authority.

Locations of Corporation AmeriCorps National Civilian Community Corps

Campuses—The Corporation maintains five AmeriCorps*National Civilian Community Corps Campuses (NCCC) under its jurisdiction. The Campuses, and their addresses are listed below. In the event there is any doubt as to whether a record is maintained at a campus location, questions should be directed to the address of the AmeriCorps*NCCC Regional Campus Director for the appropriate campus location where the volunteer performed their service as listed below. The Regional Campus Director shall furnish all assistance necessary to locate a specified record.

*AmeriCorps*NCCC Capitol Region Campus,* 2 D.C. Village Lane, S.W. Washington, D.C., 20032.

*AmeriCorps*NCCC Northeast Campus,* VA Medical Center, Building 15, Room 9, Perry Point, MD 21902–0027.

*AmeriCorps*NCCC Southeast Campus,* 2231 South Hopson Avenue, Charleston, S.C. 29405–2430.

*AmeriCorps*NCCC Central Campus,* 1059 Alton Way, Bldg 758, Room 213, Denver, CO 80230.

*AmeriCorps*NCCC Western Campus,* 3427 Laurel Street, McClellan, CA 95652.

Access and Contest—In response to a written request by an individual, the appropriate Records Liaison Officer arranges for access to the requested record or advises the requester if no record exists. If an individual wishes to contest the content of any record, he or she may do so by addressing a written request to the AmeriCorps*NCCC Regional Campus Director, located at the pertinent address for each campus location as listed above. If the Regional Campus Director determines that a request to amend an individual's record should be denied, the Regional Campus Director shall provide all necessary information regarding the request and his or her reason for the denial to the Privacy Act Officer, who is the Corporation's initial denial authority.

Location of the Corporation AmeriCorps*VISTA Alumni Office—The AmeriCorps*VISTA Alumni Office is located at the Corporation's Headquarters in Washington, D.C. This office maintains hard copy records, and is in the process of developing a more permanent electronic history of former VISTA and AmeriCorps*VISTA members.

Notification—Members may inquire whether this system of records contains information pertaining to them by addressing their request to the Corporation for National and Community Service, Attn: Alumni Coordinator, 1201 New York Avenue, NW, Washington, DC, 20525. Such request should include the member's name, social security number, and approximate dates of volunteer service.

Access and Contest—In response to a written request by a member, the Alumni Coordinator will arrange for access to the requested record or advise the requester if no record exists. If an individual wishes to contest the content of any record, he or she may do so by addressing a written request to the Corporation for National and Community Service, Attn: Alumni Coordinator, 1201 New York Avenue, NW, Washington, DC, 20525. If the Alumni Coordinator determines that the request to amend a member's record should be denied, the Alumni Coordinator shall provide all necessary information regarding the request and his or her reason for the denial to the Privacy Act Officer, who is the Corporation's initial denial authority.

Listing of System of Records

Momentum Financials Open Obligations and Automated Disbursement Files—Corporation-1
Momentum Financials Accounts Receivable Files—Corporation-2
Domestic Full-time Member Census Master File—Corporation-3
AmeriCorps Full-time Member Personnel Files—Corporation-4
Employee and Applicant Records Files—Corporation-5
Employee/Member Occupation Injury/Illness Reports and Claim Files—Corporation-6
Travel Files—Corporation-7
AmeriCorps Member Individual Accounts—Corporation-8
Counselors' Report Files—Corporation-9
Discrimination Complaint Files—Corporation-10
Employee Pay and Leave Record Files—Corporation-11
Freedom of Information Act and Privacy Act Request Files—Corporation-12
Legal Office Litigation/Correspondence Files—Corporation-13
Merit Promotion Plan Files—Corporation-14
Office of the Inspector General Investigative Files—Corporation-15
Travel Authorization Files—Corporation-16
Momentum Financials Vendor Files—Corporation-17
AmeriCorps*VISTA Volunteer Management System Files—Corporation-18

CORPORATION-1

SYSTEM NAME:

Momentum Financials Open Obligations and Automated Disbursement Files

SYSTEM LOCATION:

Office of Accounting and Financial Management Services, Corporation for National and Community Service, 1201 New York Avenue, NW, Washington, DC, 20525.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals to whom the agency owes money.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name of payee, address, ABA routing number, financial institution name and address, depositor account number, taxpayer identification number, amount owed, date of liability, amount paid, schedule number authorizing the U.S. Department of the Treasury to issue payment and returned or cancelled payments.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Domestic Volunteer Service Act of 1973, as amended; the National and Community Service Act of 1990, as amended, and the Budget and Accounting Procedures Act of 1950, as amended; the Chief Financial Officer Act of 1990; and the Debt Collection Improvement Act of 1996.

PURPOSE(S):

To maintain a current record of amounts owed and paid by the Corporation.

ROUTINE USES OF RECORDS IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See General Routine Uses contained in Preliminary Statement. Data is also released to the Internal Revenue Service in accordance with the Internal Revenue Code.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained electronically, and file folders are stored in locked metal file cabinets.

RETRIEVABILITY:

Hardcopy records are indexed alphabetically by name and electronic records may be accessed by name or taxpayer identification number.

SAFEGUARDS:

Records are available only to staff in the Office of Accounting and Financial Management Services and other appropriate Corporation officials with the need for such records in the performance of their duties.

RETENTION AND DISPOSAL:

Hardcopy records are held for three (3) years and then retired to the Federal

Records Center. Electronic records are archived periodically.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Accounting and Financial Management Services, Corporation for National and Community Service, 1201 New York Avenue, N.W., Washington, DC, 20525.

NOTIFICATION PROCEDURE:

To determine whether there is a record in the system about individual, that individual should submit a request in writing to the Records Liaison Officer giving name, taxpayer identification number, and address.

RECORD ACCESS PROCEDURES:

See Notification procedures.

CONTESTING RECORD PROCEDURES:

Anyone desiring to contest or amend information contained in this system should write to the Records Liaison Officer at the address given and set forth the basis for which the record is believed to be incomplete or incorrect.

RECORD SOURCE CATEGORIES:

Data in this system is obtained from documents submitted by individuals covered by the system as well as documents issued by Corporation officials involved with managing and disbursing funds.

EXEMPTION CLAIMED FOR THE SYSTEM:

None.

CORPORATION–2

SYSTEM NAME:

Momentum Financials Accounts Receivable Files.

SYSTEM LOCATION:

Office of Accounting and Financial Management Services, Corporation for National and Community Service, 1201 New York Avenue, N.W., Washington, DC, 20525.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM.

Individuals owing money to the Corporation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name of debtor, address, taxpayer identification number, amount owed, date of liability, and amount collected or amount forwarded to the U.S. Treasury for further collection action as mandated by DCIA of 1996.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Domestic Volunteer Service Act of 1973, as amended; the National and Community Service Act of 1990, as amended; the Budget and Accounting Procedures Act of 1950, as amended, and the Debt Collection Improvement Act of 1996.

PURPOSE(S):

To maintain a current record of amounts owed and paid to the Corporation.

ROUTINE USES OF RECORDS IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See General Routine Uses contained in Preliminary Statement. Data may be disclosed to the U.S. Department of Justice for litigation action; the U.S. Department of the Treasury to pursue further collection action when the Corporation is unable to collect a debt through its own efforts and/or recommended write-off; or to the General Accounting Office in connection with inquiries, audits or investigations related to the Corporation's debt activities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders which are stored in locked metal file cabinets.

RETRIEVABILITY:

Records are indexed alphabetically by name.

SAFEGUARDS:

Records are available only to staff in the Office of Accounting and Financial Management Services, other authorized Corporation officials with the need for such records in the performance of their duties or forwarded to the U.S. Treasury for further collection action.

RETENTION AND DISPOSAL:

Records are held for three (3) years and then retired to the Federal Records Center.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Accounting and Financial Management Services, Corporation for National and Community Service, 1201 New York Avenue, NW., Washington, DC, 20525.

NOTIFICATION PROCEDURE:

To determine whether there is a record in the system about an individual, that individual should submit a request in writing to the Records Liaison Officer giving name, taxpayer identification number, and address.

RECORD ACCESS PROCEDURES:

See Notification procedures.

CONTESTING RECORD PROCEDURES:

Anyone desiring to contest or amend information contained in this system should write to the Records Liaison Officer and set forth the basis for which the record is believed to be incomplete or incorrect.

RECORD SOURCE CATEGORIES:

Data in this system is obtained from documents submitted by individuals covered by the system as well as documents issued by Corporation officials involved with managing and collecting debts.

EXEMPTION CLAIMED FOR THE SYSTEM:

None.

CORPORATION-3

SYSTEM NAME:

Domestic Full-time Member Census Master File.

SYSTEM LOCATION:

Corporation for National and Community Service, AmeriCorps*VISTA, 1201 New York Avenue, NW., Washington, DC 20525.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any person who has served as a VISTA, or an AmeriCorps*VISTA member.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records maintained contain information extracted from the member's application, information about the member's period of service, and information about the member's history with the Corporation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Domestic Volunteer Service Act of 1973, as amended.

PURPOSE(S):

The system of records was established to maintain service histories on all former VISTA and AmeriCorps*VISTA members.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

See General Routine Uses contained in Preliminary Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in a locked metal cabinet in the AmeriCorps Office. Records are also stored in a temporary electronic database as the records are digitized on the Corporation's internal computer network.

RETRIEVABILITY:

The member's name and/or social security number retrieves records.

SAFEGUARDS:

The material is available only to Corporation and AmeriCorps*VISTA staff. It is not available to anyone else without the express written consent from the individual to release his/her information.

RETENTION AND DISPOSAL:

These records are maintained permanently.

SYSTEM MANAGER(S) AND ADDRESS:

Director of AmeriCorps*VISTA, Corporation for National and Community Service, 1201 New York Avenue, NW., Washington, DC 20525.

NOTIFICATION PROCEDURE:

A former member wishing to determine if this system contains his/her record should contact the Corporation for National and Community Service, Attn: Alumni Coordinator, 1201 New York Avenue, NW., Washington, DC 20525, and provide his/her name, last four digits of social security number, and approximate dates of volunteer service.

RECORDS ACCESS PROCEDURES:

A former member wishing access to information about his/her record should contact the Corporation for National and Community Services, Attn: Alumni Coordinator, 1201 New York Avenue, NW., Washington, DC 20525.

CONTESTING RECORDS PROCEDURES:

Any former member wishing to amend information maintained in his/her electronic record may do so by addressing such request to the Corporation for National and Community Service, Attn: Privacy Act Officer, 1201 New York Avenue, NW., Washington, DC 20525.

RECORD SOURCE CATEGORIES:

The data is obtained from the member's application, status change, payroll change notices, and the Alumni Interest Profile form.

EXEMPTION CLAIMED FOR THE SYSTEM:

None.

CORPORATION-4

SYSTEM NAME:

AmeriCorps Full-time Member Personnel Files.

SYSTEM LOCATION:

All Corporation State Offices, AmeriCorps*Leaders Office at Corporation Headquarters, and NCCC Regional Campuses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All active AmeriCorps members assigned under programs operated by the Corporation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records maintained contain member application and reference forms, member status and payroll information, member travel vouchers, future plans forms, including evaluation of service, and general correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Domestic Volunteer Service Act of 1973, as amended; the National and Community Service Act of 1990, as amended.

PURPOSE(S):

This system of records was established to maintain information on AmeriCorps members while they are assigned to their respective programs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The content of these records may be disclosed to the member's sponsor (VISTA) and other Corporation officials concerning placement, performance, support, and related matters for AmeriCorps members. Also, see General Routine Uses contained in Preliminary Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders which are stored in locked metal file cabinets.

RETRIEVABILITY:

Records are retrievable alphabetically by last name.

SAFEGUARDS:

Records in the system are available only to appropriate Corporation staff in State Offices, the AmeriCorps*Leaders Office at Corporation Headquarters, and Regional NCCC Campuses, and other appropriate officials of the Corporation with need for such records in the performance of their duties.

RETENTION AND DISPOSAL:

Records are retained for one (1) year after the member has terminated and then retired to the Federal Records Center where they are maintained for six (6) years.

SYSTEM MANAGER(S) AND ADDRESS:

The System Manager for VISTAs is the State Program Director at each Corporation State Office; the Regional NCCC Campus Director at each Campus location; and the Director, AmeriCorps*Leaders at Corporation Headquarters.

NOTIFICATION PROCEDURE:

A member wishing to determine if this system contains his/her records should contact the Corporation State Office (VISTAs) for the state where he/she performed his/her service; NCCC Campus where he/she was assigned, and the AmeriCorps*Leaders Office at Corporation Headquarters.

RECORD ACCESS PROCEDURES:

A member wishing access to information about his/her records should contact the particular Corporation State Office or NCCC Regional Campus where he/she was assigned or performed his/her service, and the AmeriCorps*Leaders Office at Corporation Headquarters, and provide name, social security number, and dates and location of where the member performed his/her service.

CONTESTING RECORD PROCEDURES:

A member wishing to amend his/her record may do so by addressing a request to the Corporation for National and Community Service, Attn: Privacy Act Officer, 1201 New York Avenue, NW., Washington, DC 20525.

RECORD SOURCES CATEGORIES:

The data is supplied by the member or through forms signed and executed by the member, or by Corporation personnel.

EXEMPTION CLAIMED FOR THE SYSTEM:

None.

CORPORATION-5

SYSTEM NAME:

Employee and Applicant Records Files.

SYSTEM LOCATION:

Human Resources, Corporation for National and Community Service, 1201 New York Avenue, NW., Washington, DC, 20525.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees; applicants; individuals involved in a grievance.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) The Staff Security Files contain investigative information regarding an individual's character, conduct or behavior in the community; loyalty to the U.S. Government; arrests and convictions, interviews with former

supervisors, coworkers, associates, educators, etc., about qualifications for a specific position; and inquires with law enforcement agencies, former employers, and educational institutions.

(2) The Grievance, Appeal and Arbitration Files contain copies of petitions, complaints, charges, responses, rebuttals, evidentiary materials, briefs, affidavits, statements, records of hearings and decisions or findings of fact and incidental correspondence regarding complaints and appeals.

(3) The Employees Indebtedness Files contain correspondence regarding alleged indebtedness of Corporation employees, including employees' responses, the Corporation's response to the employee and/or creditor and records relating to assistance to the employee in resolving indebtedness.

(4) The Employee Reemployment and Repromotion Priority Consideration Files list a person's name and the positions he or she was considered for, dates of consideration and a copy of the individual's latest Standard Form 171 and performance evaluation.

(5) The Performance Evaluation File consists of annual evaluations of employee performance prepared by supervisors and reviewed by supervisory reviewing officials, together with employee's comments.

(6) The Management-Union Records System consists of printouts of an employee's name, grade, series, title, or organizational entity and other data which determine inclusion or exclusion from the bargaining unit under the union contract. The printout also shows of dues withheld from each employee.

(7) The Human Resources Management Information System is a record of employees' tenure, benefits eligibility, awards, and other data used by Human Resources and Corporation managers.

(8) The Personnel History Program is a record of personnel actions made during employment, forwarding address, reason for leaving, social security number, date of birth, tenure, and information regarding date and reason for termination.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Domestic Volunteer Service Act of 1973, as amended; the National and Community Service Act of 1990, as amended; provisions of the Federal Personnel Manual; Executive Orders concerning management relations with employee organizations; Executive Order 10450; and various acts of Congress relating to personnel investigations as authorized by the Office of Personnel Management.

PURPOSE(S):

To provide an information system which supports the Corporation's personnel management program.

ROUTINE USES OR RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OR USERS AND THE PURPOSES OF SUCH USES:

As indicated below, the subsystems incorporate all or some of the published routine uses.

(1) Staff Security Files—in addition to routine uses, may be disclosed to the Office of Human Resources as part of the personnel investigation records system.

(2) Grievance, Appeal and Arbitration Records and Files—in addition to routine uses, may be disclosed to (a) OPM; the Merit Systems Protection Board; and the Office of Special Counsel, on request in conjunction with an appeal or with regard to personnel investigations regarding complaints of Federal Employees and applicants; and (b) to designated hearing examiners, arbitrators and third-party appellate authorities involved in hears or appeals.

(3) Employees Indebtedness Records and Files—may be released under our routine uses numbers 1 and 2, except that under routine use number 1, records may be released to an appropriate Federal agency or referred to a court or other administrative board on matters related to probation and parole.

(4) Employee Reemployment and Repromotion Priority Consideration Records and Files—in addition to routine uses, may be disclosed to: (a) OPM as part of the OPM personnel management evaluation system; and (b) to OPM for information concerning reemployment and repromotion rights.

(5) Performance Evaluation Files—in addition to our general routine uses, may be disclosed to an OPM request for information.

(6) Management Union Records—in addition to routine uses, may be disclosed to: (a) The Corporation employees' union for dues maintenance and inclusion in the bargaining unit; (b) the Treasury Department for preparation of dues withholding; and (c) OPM for management/labor relations reports.

(7) Human Resources Management Information System—used by Corporation officials for day-to-day work information; statistical reports without personal identifiers and for in-house reports relating to management. Information contained in this record is reflected in the individual's official personnel folder.

(8) Personnel History Program—is used by the Human Resources staff to verify service and for other day-to-day information.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records, including file folders, floppy disks, lists and loose-leaf binders, are stored in metal file cabinets with locks, or in secured rooms with access limited to employees whose duties require access. Where data is obtained via computer, controlled access is maintained through computer security control procedures.

RETRIEVABILITY:

Records are indexed by name or social security number.

SAFEGUARDS:

Records are available to Corporation employees having a need in the performance of their duties. Generally, Security Files are available only to office heads or security personnel.

RETENTION AND DISPOSAL:

After termination, death, retirement, or consideration of an applicant, the Staff Security Files are retained three (3) years and then retired to a Federal Records Center for twenty-seven (27) years and then destroyed. The Grievances, Appeals and Arbitration Files are retained indefinitely in Human Resources. The Employee Indebtedness Files are destroyed on a bi-annual basis or when the indebtedness is resolved. The Employee Reemployment and Repromotion Priority Consideration Files are retained according to length of reemployment or repromotion eligibility. The Performance Evaluation Files are retained one year or until superseded. The Human Resources Management Information System records and the Personnel Program data are kept indefinitely in the Office of Human Resources. The Management-Union Lists are retained until superseded by a corrected or updated list.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Human Resources, Corporation for National and Community Service, 1201 New York Avenue, NW., Washington, DC, 20525.

NOTIFICATION PROCEDURE:

See the Notification paragraph in the Preliminary Statement.

RECORD ACCESS PROCEDURES:

See the Notification paragraph in the Preliminary Statement.

CONTESTING RECORD SOURCE CATEGORIES:

Same as ''Record Access Procedures''.

RECORD SOURCE CATEGORIES:

From the individual; the official personnel folder; statistical and other information developed by Human Resources staff, such as the enter on duty date, and within grade increase due dates; agency supervisors and reviewing officials; individual employee fiscal and payroll records; alleged creditors of employees; witnesses to occurrences giving rise to a grievance, appeal, or other action; hearing records and affidavits and other documents used or usable in connection with grievance, appeal and arbitration hearings. Information contained in the Staff Security files is obtained from: (a) Applications and other personnel and security forms furnished by the individual; (b) investigative material furnished by other Federal agencies; (c) personal investigation or written inquiry from associates, police departments, courts, credit bureaus, medical records, probation officials, prison officials, and other sources as may be developed from the above; and (d) the individual.

EXEMPTION CLAIMED FOR THE SYSTEM:

None.

CORPORATION-6

SYSTEM NAME:

Employee/Member Occupational Injury/Illness Reports and Claim Files.

SYSTEM LOCATION:

Human Resources, Corporation for National and Community Service, 1201 New York Avenue, NW., Washington, DC, 20525.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Corporation staff and full-time volunteers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Reports of work related injuries and illnesses and claims for workers' compensation submitted to Department of Labor.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Employees Compensation Act & Occupational Safety and Health Administration Act.

PURPOSE(S):

To maintain injury/illness reports and to track workers' compensation claims on behalf of Corporation staff and full-time members.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To determine annual work related injury/illness data re: Corporation staff, and to identify trends, and to prepare and submit workers' compensation claims. Also, see General Routine Uses contained in Preliminary Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders which are locked in metal file cabinets.

RETRIEVABILITY:

Records are maintained alphabetically by name.

SAFEGUARDS:

Records are available to claimants and Corporation staff with a job related need.

RETENTION AND DISPOSAL:

Official files are kept seven (7) years following year of occurrence. Disposal is by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

OWCP Liaison Officer, Human Resources, Corporation for National and Community Service, 1201 New York Avenue, NW., Washington, DC, 20525.

NOTIFICATION PROCEDURE:

Claimant submits written request to the above address.

RECORD ACCESS PROCEDURES:

Requester should give OWCP claim number, but it is not mandatory. Requests may be submitted in the name of injured employee/volunteer.

CONTESTING RECORD PROCEDURES:

Claimant or injured employee/member may submit any data deemed relevant to the case to address listed.

RECORD SOURCE CATEGORIES:

Individual who suffers work related injury/illness submits any pertinent data necessary; medical reports, witness statements, time and attendance records, medical bills or legal briefs.

EXEMPTION CLAIMED FOR THE SYSTEM:

None.

CORPORATION-7

SYSTEM NAME:

Travel Files.

SYSTEM LOCATION:

Office of Administrative and Management Services, Travel Unit; Corporation for National and Community Service, 1201 New York Avenue, NW., Washington, DC, 20525. For field offices, travel files are kept at the operational location of each Service Center Director, State Director, and NCCC Campus Director.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Corporation Headquarters Staff, Consultants, Invitational Travelers, and all Corporation Relocated Staff.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individuals' records and special event records for Headquarters Staff, Field Staff. Travel files are located at each Corporation site.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Domestic Volunteer Service Act of 1973, as amended, and the National Community Service Act of 1990, as amended.

PURPOSE(S):

To maintain travel files on all persons traveling on official Corporation business.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See General Routine Uses contained in Preliminary Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Files are maintained in individual folders in a locked metal file cabinet when not in immediate use.

RETRIEVABILITY:

Individual's name in alphabetical order and Travel Authorization number.

SAFEGUARDS:

Access only to appropriate personnel and Corporation officials. The metal travel file cabinet is locked when not in use.

RETENTION AND DISPOSAL:

Retention three (3) years. Disposal of records is by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Travel Management Program Analyst, Office of Administrative and Management Services, Corporation for National and Community Service, 1201 New York Avenue, NW. Washington, DC 20525. For field offices, the System Manager is the Service Center Director, State Director, and NCCC Campus Director.

NOTIFICATION PROCEDURE:

Send to address listed.

RECORD ACCESS PROCEDURES:

Travel Management Program Analyst, Office of Administrative and Management Services, Corporation for National and Community Service, 1201 New York Avenue, NW., Washington,

DC 20525. For field offices, the System Manager is the Service Center Director, State Director, and NCCC Campus Director.

CONTESTING RECORD PROCEDURES:

Send to address listed.

RECORD SOURCE CATEGORIES:

Submitted by Corporation employees etc.

EXEMPTION CLAIMED FOR THE SYSTEM:

None.

CORPORATION–8

SYSTEM NAME:

AmeriCorps Member Individual Accounts.

SYSTEM LOCATION:

Corporation for National and Community Service, National Service Trust Operations, 1201 New York Avenue, NW., Washington DC 20525.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any person who has served or is serving as a member or other full-time, stipended member under a Corporation program.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records maintained contain information extracted from the application, information about the period of service, and information about the member's service history.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Domestic Volunteer Service Act of 1973, as amended, and the National and Community Service Act of 1990, as amended.

PURPOSE(S):

The system of records was established to maintain service histories on all current, former, and other full-time stipend volunteers serving in the Corporation programs and earning an education award.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

See General Routine Uses contained in Preliminary Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on magnetic tape, disks, electronic image, hard copy, and are kept in a locked room when not in use.

RETRIEVABILITY:

Records are retrieved by social security number.

SAFEGUARDS:

The material on tapes and disks is generally available only to the Corporation's Office of Information Technology and Accounting staff, and is so coded as to be unavailable to anyone else. Hard copy records are available only to Corporation staff with a need for such records in the performance of their duties.

RETENTION AND DISPOSAL:

These records are maintained for a period of (7) seven years from date the volunteer earns an education award and then forwarded to the Federal Records Center for (3) three years. Electronically imaged documents will be maintained permanently.

SYSTEM MANAGER(S) AND ADDRESS:

Director, National Service Trust Operations, Corporation for National and Community Service, 1201 New York Avenue, NW., Washington, DC 20525.

NOTIFICATION PROCEDURE:

A person wishing to determine if this system contains his/her records should contact the Corporation for National and Community Service, Director, National Service Trust Operations, 1201 New York Avenue, NW., Washington, DC 20525, and provide name, social security number, and dates of volunteer service.

RECORDS ACCESS PROCEDURES:

A person wishing access to information about their records should contact the Corporation for National and Community Services, Director, National Service Trust Operations, 1201 New York Avenue, NW., Washington, DC 20525.

CONTESTING RECORD PROCEDURES:

A person wishing to amend his/her record may do so by addressing such request to the Corporation for National and Community Service, Attn: Privacy Act Officer, 1201 New York Avenue, NW., Washington, DC 20525.

RECORD SOURCE CATEGORIES:

The data is obtained from enrollment and exit forms.

EXEMPTION CLAIMED FOR THE SYSTEM:

None.

CORPORATION–9

SYSTEM NAME:

Counselors' Report Files.

SYSTEM LOCATION:

Equal Opportunity Office, Corporation for National and Community Service, 1201 New York, Avenue, NW., Washington, DC 20525.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any employee or applicant for employment, service member, or applicant or trainee for volunteer or service status, or employee of a grantee who has contacted or requested a Corporation Equal Opportunity Counselor for counseling, but has not filed a formal discrimination complaint.

CATEGORIES OF RECORDS IN THE SYSTEM:

Counselors' Reports, Privacy Act notice, confidentiality agreement, notice to members of collective bargaining agreement, notice of final interview, notes and correspondence, and copies of personnel records or other documents relevant to the matter presented to the Counselor, and any other records relating to the counseling instance.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Titles VI and VII of the Civil Rights Act of 1964, as amended; Age Discrimination in Employment Act, as amended; Rehabilitation Act of 1973, as amended; Title IX of the Education Amendments of 1972, as amended; Domestic Volunteer Service Act of 1973, as amended; National and Community Service Act of 1990, as amended; and the Age Discrimination Act, as amended.

PURPOSE(S):

To enable Equal Opportunity Counselors to look into matters brought to their attention, provide counseling, attempt to resolve the matter, and document actions taken.

ROUTINE USES OR RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

1. Referral or disclosure: (a) To a Federal, state, or local agency charged with the responsibility of investigating, enforcing, or implementing the statute, rule, regulation, or order; (b) to an investigator, Counselor, grantee or other recipient of Federal financial assistance, or hearing officer or arbitrator charged with the above responsibilities; (c) any and all appropriate and necessary uses of such records in a court of law or before an administrative board or hearing; and (d) such other referrals as may be necessary to carry out the enforcement and implementation of the statutes, rules, regulations, or orders.

2. Disclosure to the Congressional committees having legislative jurisdiction over the program involved, including when actions are proposed to be undertaken by suspending or terminating or refusing to grant or to continue Federal financial assistance for violation of the statutes, rules, regulations, or orders for recipients of

Federal financial assistance from the Corporation.

3. Disclosure to any source, either private or governmental, to the extent necessary to secure from source information relevant to, and sought in furtherance of, a legitimate investigation or EO counseling matter.

4. Disclosure to a contractor, grantee or other recipient of Federal financial assistance, when the record to be released reflects serious inadequacies with the recipient's personnel, and disclosure of the record is for the purpose of permitting the recipient to effect corrective action in the Government's best interests.

5. Disclosure to any party pursuant to the receipt of a valid subpoena.

6. Disclosure during the course of presenting evidence to a court magistrate or administrative tribunal of appropriate jurisdiction and such disclosure may include disclosure to opposing counsel in the course of settlement negotiations.

7. Disclosure to a member of Congress submitting a request involving an individual who is a constituent of such member who has requested assistance from the member with respect to the subject matter of the record.

8. Information in any system of records may be used as a data source, for management information, for the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related personnel management functions or manpower studies. Information may also be disclosed to respond to general requests for statistical information (without personal identification of individuals) under the Freedom of Information Act.

9. Information in any system of records to be disclosed to a Congressional office, in response to an inquiry from any such office, made at the request of the individual to whom the record pertains.

10. A record from any system of records may be disclosed as a routine use of the National Archives and Records Administration, in records management inspection conducted under authority of 44 U.S.C. 209 and 290.

11. Referral to Federal, state, local and professional licensing authorities when the record to be released reflects on the moral, educational, or vocational qualifications of an individual seeking to be licensed.

12. Disclosure to the Office of Government Ethics (OGE) for any purpose consistent with OGE's mission, including the compilation of statistical data.

Note: The Agency-wide statement of general routine uses does not apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Files are maintained in folders or computer diskettes and locked in metal file cabinets when not in immediate use.

RETRIEVABILITY:

Retrievability is by the name of the person who contacted the Counselor.

SAFEGUARDS:

Records in the system are available only to appropriate personnel in the Office of Equal Opportunity and other designated officials of the Corporation with a need for such records in the performance of their duties.

RETENTION AND DISPOSAL:

Two (2) years after completion of counseling, the files are destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Equal Opportunity, Corporation for National and Community Service, 1201 New York Avenue, NW., Washington, DC 20525.

NOTIFICATION PROCEDURE:

Request by individuals on whether a record is maintained about himself or herself should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Request for access to these records should be addressed to the System Manager.

CONTESTING RECORD PROCEDURES:

Contest to information included in these records should be addressed to the System Manager.

RECORD SOURCE CATEGORIES:

Data in this system is obtained from the following categories of sources: (1) Aggrieved persons, witnesses, etc., in counseling matters; (2) Counselors' Reports; (3) Copies of documents relevant to any counseling matter; and (4) Correspondence.

EXEMPTION CLAIMED FOR THE SYSTEM:

None.

CORPORATION–10

SYSTEM NAME:

Discrimination Complaint Files.

SYSTEM LOCATION:

Equal Opportunity Office, Corporation for National and Community Service, 1201 New York Avenue, NW., Washington DC, 20525.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any employee or applicant for employment, AmeriCorps member or applicant or trainee for volunteer or service status, or employee of a grantee, or program beneficiary who has filed a formal complaint with, or against, the Corporation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Formal complaints, Reports of Investigation, Counseling documents, case decisions, and relevant correspondence, including settlement agreements.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Titles VI and VII of the Civil Rights Act of 1964, as amended; the Age Discrimination in Employment Act, as amended; the Rehabilitation Act of 1973, as amended; Title IX of the Education Amendments of 1972, as amended; the Domestic Volunteer Service Act of 1973, as amended; the National and Community Service Act of 1990, as amended; and the Age Discrimination Act, as amended.

PURPOSE(S):

To enable the Corporation to investigate and adjudicate complaints of discrimination.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Referral or disclosure: (a) To a Federal, state, or local agency charged with the responsibility of investigating, enforcing, or implementing the statute, rule, regulation, or order; (b) to an investigator, counselor, grantee or other recipient of Federal financial assistance or hearing officer or arbitrator charged with the above responsibilities; (c) any and all appropriate and necessary uses of such records in a court of law or before an administrative board or hearing; and (d) such other referrals as may be necessary to carry out the enforcement and implementation of the statutes, rules, regulations, or orders.

2. Disclosure to the Congressional committees having legislative oversight over the program involved, including when actions are proposed to be undertaken by suspending or terminating or refusing to grant or to continue Federal financial assistance for violation of the statutes, rules, regulations, or orders for recipients of Federal financial assistance from the Corporation.

3. Disclosure to any source, either private or governmental, to the extent

necessary to secure from source information relevant to, and sought in furtherance of, a legitimate investigation or EO counseling matter.

4. Disclosure to a contractor, grantee or other recipient of Federal financial assistance, when the record to be released reflects serious inadequacies with the recipient's personnel, and disclosure of the record is for the purpose of permitting the recipient to effect corrective action in the Government's best interests.

5. Disclosure to any party pursuant to the receipt of a valid subpoena.

6. Disclosure during the course of presenting evidence to a court, magistrate or administrative tribunal of appropriate jurisdiction and such disclosure may include disclosures to opposing counsel in the course settlement negotiations.

7. Disclosure to a member of Congress submitting a request involving an individual who has requested assistance from the member with respect to the subject matter of the record.

8. Information in any system of records may be used as a data source, for management information, for the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related personnel management functions or manpower studies. Information may also be disclosed to respond to general requests for statistical information (without personal identification of individuals) under the Freedom of Information Act.

9. A record from any system of records may be disclosed as a routine use of the National Archives and Records Administration, in records management inspections conducted under authority of 44 U.S.C. 2094 and 2906.

10. Referral to Federal, state, local and professional licensing authorities when the record to be released reflects on the moral, educational, or vocational qualifications of an individual seeking to be licensed.

11. Disclosure to the Office of Government Ethics (OGE) for any purpose consistent with OGE's mission, including the compilation of statistical data.

Note: The Agency-wide statement of general routine uses does not apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Files are maintained in folders or on computer diskettes which are locked in metal file cabinets when not in immediate use.

RETRIEVABILITY:

Files are retrieved by the complainant's name.

SAFEGUARDS:

Records in the system of records are available only to appropriate personnel in Equal Opportunity and other designated officials of the Corporation with a need of such records in the performance of their duties.

RETENTION AND DISPOSAL:

Records are destroyed four (4) years after the close of the case.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Equal Opportunity, Corporation for National and Community Service, 1201 New York Avenue, NW., Washington, DC., 20525.

NOTIFICATION PROCEDURE:

Request by individuals on whether a record is maintained about himself or herself should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Request for access to these records should be sent to the System Manager.

CONTESTING RECORD PROCEDURES:

Contest of information included in these records should be sent to the System Manger.

RECORD SOURCE CATEGORIES:

Data in this system is obtained from the following categories of sources: (1) Complainants, witnesses, etc., in discrimination complaints; (2) Reports of investigations and Counselors' Reports; (3) Copies of documents relevant to any EO investigation; (4) Records of hearings on complaint; and (5) Correspondence.

EXEMPTION CLAIMED FOR THE SYSTEM:

None.

CORPORATION-11

SYSTEM NAME:

Employee Pay and Leave Record Files.

SYSTEM LOCATION:

Human Resources, Corporation for National and Community Service, 1201 New York Avenue, NW., Washington, DC, 20525.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Corporation employees and former employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personnel actions including appointment, promotion and termination actions; savings bond applications; allotments; IRS tax withholdings, employment applications, and records regarding collections for overpayments; and time and attendance records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

GAO Policy and Procedures Manual; 31 U.S.C. 66(a); and the Budget and Accounting Procedures Act of 1950, as amended.

PURPOSE(S):

To provide a system whereby Corporation employees can track payroll and leave information.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information from these records is routinely provided: (1) To the U.S. Department of Treasury for payroll and savings bonds and other deduction purposes; (2) to the Internal Revenue Service for tax deductions; and (3) to participating insurance companies holding policies with respect to employees of the Corporation. Also, see General Routine Uses contained in Preliminary Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders in locked metal file cabinets. Individual Time and Attendance records maintained by designated agency timekeepers are stored in locked metal file cabinets.

RETRIEVABILITY:

Records are by name in alphabetical order.

SAFEGUARDS:

Records are available to Corporation employees with a job related need.

RETENTION AND DISPOSAL:

Records are maintained for three (3) years after the end of the fiscal year in which an employee terminates employment and then retired to the Federal Records Center in accordance with General Accounting Office instructions.

SYSTEM MANAGER(S) AND ADDRESS:

Payroll Supervisor, Corporation for National and Community Service, Human Resources, 1201 New York Avenue, NW., Washington, DC, 20525.

NOTIFICATION PROCEDURE:

See the Notification paragraph in the Preliminary Statement.

RECORD ACCESS PROCEDURES:

See the Access and Contest paragraph in the Preliminary Statement.

CONTESTING RECORD PROCEDURES:

See the Access and Contest paragraph in the Preliminary Statement.

RECORD SOURCE CATEGORIES:

Corporation employee to whom the record pertains.

EXEMPTION CLAIMED FOR THE SYSTEM:

None.

CORPORATION-12

SYSTEM NAME:

Freedom of Information Act and Privacy Act Request Files.

SYSTEM LOCATION:

Office of the Freedom of Information Act (FOIA)/Privacy Act (PA) Officer, Corporation for National and Community Service, 1201 New York Avenue, NW., Washington, DC, 20525.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who have submitted FOIA/PA requests.

CATEGORIES OF RECORDS IN THE SYSTEM:

Formal requests (FOIA/PA), research data, written decisions, and relevant correspondence, including final responses to the requesters.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Freedom of Information Act of 1966, as amended, and the Privacy Act of 1974, as amended.

PURPOSE(S):

To maintain files of FOIA/PA requests and the Corporation's responses.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See General Routine Uses contained in Preliminary Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders which are stored in locked metal file cabinets. Computerized files are maintained on the Corporation FOIA/PA Officer's computer.

RETRIEVABILITY:

Records are indexed by number and by year.

SAFEGUARDS:

Records in the system are available only to the Corporation FOIA/Privacy Act Officer or those officials authorized by the Corporation FOIA/Privacy Act Officer with a need for access of such records in the performance of their duties.

RETENTION AND DISPOSAL:

Records concerning requests and appeals are destroyed three (3) years after initial request.

SYSTEM MANAGER(S) AND ADDRESS:

Corporation FOIA/Privacy Act Officer, Corporation for National and Community Service, 1201 New York Avenue, NW., Washington, DC 20525.

NOTIFICATION PROCEDURE:

See Notification paragraph in the Preliminary Statement.

RECORD ACCESS PROCEDURES:

See Access and Consent paragraph in the Preliminary Statement.

CONTESTING RECORD PROCEDURES:

See Access and Contest paragraph in the Preliminary Statement.

RECORD SOURCE CATEGORIES:

Data in this system is obtained from documents submitted by individuals engaging in official FOIA/PA requests as well as from responses issued by officials of the Corporation.

EXEMPTION CLAIMED FOR THE SYSTEM:

None.

CORPORATION-13

SYSTEM NAME:

Legal Office Litigation/Correspondence Files.

SYSTEM LOCATION:

Office of the General Counsel, Corporation for National and Community Service, 1201 New York Avenue, NW., Washington, DC 20525.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals involved in litigation which requires General Counsel action.

CATEGORIES OF RECORDS IN THE SYSTEM:

Statements; affidavits/declarations; investigatory and administrative reports; personnel, financial, medical and business records; discovery and discovery responses; motions; orders, rulings; letters; messages; forms; reports; surveys; audits; summons; English translations of foreign documents; photographs; legal opinions; subpoenas; pleadings; memos; related correspondence; briefs; petitions; court records involving litigation; and related matters.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

These records are maintained under general authority of the Office of the General Counsel to represent the Corporation in connection with its dealings with its employees, and the general functions of the Office of the General Counsel to provide advice and counsel to the Chief Executive Officer of the Corporation and his or her staff.

PURPOSE(S):

To maintain files relating to litigation matters involving the Corporation.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To prepare correspondence and materials for litigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders which are stored in locked metal file cabinets. Computerized files are maintained on employee computers.

RETRIEVABILITY:

Name of individual and the year litigation commenced.

SAFEGUARDS:

Records are available only to employees assigned to the General Counsel Office or those officials authorized by the General Counsel with a need of such records in the performance of their duties.

RETENTION AND DISPOSAL:

Records will be maintained in the Office of the General Counsel for one (1) year after case closure. Records will then be sent to the Federal Records Center where they will be destroyed after ten (10) years.

SYSTEM MANAGER(S) AND ADDRESS:

General Counsel, Corporation for National and Community Service, 1201 New York Avenue, NW., Washington, DC 20525.

NOTIFICATION PROCEDURE:

Employees wishing to determine if this system contains records relating to them should contact the Corporation for National and Community Service, General Counsel Office, 1201 New York Avenue, NW., Washington, DC 20525.

RECORD ACCESS PROCEDURES:

Litigation files are not subject to access. Other files may be accessed in accordance with agency-wide regulations.

CONTESTING RECORD PROCEDURES:

Contest of information included in these records should be sent to the System Manager.

RECORD SOURCE CATEGORIES:

Data is obtained from the following categories of sources: (1) Corporation employees; (2) Correspondence and reports from persons and agencies dealing with the agency and its employees; (3) Work product and research by lawyers of the office; and (4) Court records.

EXEMPTION CLAIMED FOR THE SYSTEM:

Any information compiled in reasonable anticipation of a civil action or proceeding. 5 U.S.C. 552a(d)(5).

CORPORATION-14

SYSTEM NAME:

Merit Promotion Plan Files.

SYSTEM LOCATION:

Human Resources, Corporation for National and Community Service, 1201 New York Avenue, NW., Washington, DC 20525.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for employment with the Corporation.

CATEGORIES OF RECORDS IN THE SYSTEM:

These files contain copies of applications for employment (SF–612 or resumes) submitted by applicants and other background information regarding qualifications of the applicant for positions in the Corporation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Domestic Volunteer Service Act of 1973, as amended, and the National Community Service Act of 1990, as amended.

PURPOSE(S):

To provide documentation necessary to support the Corporation's merit selection process.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The contents of these files are used as follows: (1) To Human Resources regarding suitability or qualifications of an applicant for employment; and (2) to any source which requests information in the course of an inquiry regarding the qualifications of an applicant to identify the individual, inform the source of the nature and purpose of the inquiry, and to identify the type of information requested. Also, see General Routine Uses contained in Preliminary Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders in locked metal file cabinets.

RETRIEVABILITY:

Records are indexed by vacancy announcement number.

SAFEGUARDS:

Records are available to Corporation employees with a job related need.

RETENTION AND DISPOSAL:

Records are destroyed when applications are two (2) years old. Applications which resulted in appointment are filed in the Official Personnel Folder and subsequently retired to the Federal Records Center, St. Louis, Missouri.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Human Resources, Corporation for National and Community Service, 1201 New York Avenue, N.W., Washington, D.C., 20525.

NOTIFICATION PROCEDURE:

See the Notification paragraph in the Preliminary Statement.

RECORD ACCESS PROCEDURES:

See the Access and Contest paragraph in the Preliminary Statement.

CONTESTING RECORD CATEGORIES:

Same as Record Access Procedures category.

RECORD SOURCE CATEGORIES:

Information is obtained from the following categories of sources: applications and other personnel forms furnished by the individual; written references from sources disclosed by the applicant, such as, employers and schools.

EXEMPTION CLAIMED FOR THE SYSTEM:

None.

CORPORATION-15

SYSTEM NAME:

Office of the Inspector General Investigative Files.

SYSTEM LOCATION:

Office of the Inspector General, Corporation for National and Community Service, 1201 New York Avenue, N.W., Washington, D.C., 20525.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Subjects, complainants, and witnesses of investigations, complaints, or other matters, including (but not necessarily limited to) former and present Corporation employees; former and present Corporation grant recipients, applicants, consultants, contractors and subcontractors and their employees; and other parties doing business or proposing to conduct business with the Corporation or its recipients, contractors and subcontractors.

CATEGORIES OF RECORDS IN THE SYSTEM:

All correspondence relevant to the investigation; all internal staff memoranda; information provided by subjects, witnesses, and governmental investigatory or law enforcement organizations; copies of all subpoenas issued during the investigation; affidavits, statements from witnesses, memoranda of interviews, transcripts of testimony taken in the investigation and accompanying exhibits; documents and records or copies obtained during the investigation; working papers of the staff, investigative notes, and other documents and records relating to the investigation; information about criminal, civil, or administrative referrals; and opening reports, progress reports, and closing reports, with recommendations for corrective action.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Inspector General Act of 1978, as amended, 5 U.S.C. app. 3.

PURPOSE(S):

To maintain files of investigative and reporting activities carried out by the Office of the Inspector General.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Referral to Federal, state, local and foreign investigative or prospective authorities. A record in the system of records, which indicates either by itself or in combination with other information within the Corporation's possession, a violation or potential violation of law, whether civil, criminal or regulatory and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, may be disclosed, as a routine use, to the appropriate Federal, foreign, state or local agency or professional organization charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing or investigating or prosecuting such violation or charged with enforcing or implementing the statue or rule, regulation or order issued pursuant thereto.

2. Disclosure to a Federal or state grand jury agent pursuant to a Federal

or state grand jury subpoena or prosecution request that such record be released for the purpose of its introduction to a grand jury.

3. Referral to suspension/debarment authorities, internal to the Corporation, when the record released is germane to a determination of the propriety of, or necessity for, a suspension or debarment action.

4. Referral to Federal, state, local and professional licensing authorities when the record to be released reflects on the moral, educational, or vocational qualifications of an individual holding a license or seeking to be licensed.

5. Disclosure to a contractor, grantee, or subgrantee or other recipient of Federal funds, when the record to be released reflects serious inadequacies with the recipient's personnel, and disclosure of the record is for the purpose of permitting the recipient to effect corrective action in the Government's best interest.

6. Disclosure to a contractor, grantee, or subgrantee or other recipient of Federal funds, when the recipient has incurred an indebtedness to the Government through its receipt of Government funds, and release of the record is for the purpose of allowing the debtor to effect a collection against a third party.

7. Disclosure to any source, either private or governmental, to the extent necessary to secure from such source information relevant to, and sought in furtherance of, a legitimate investigation or audit.

8. Disclosure to a domestic, foreign or international governmental agency considering personnel or other internal actions, such as assignment, hiring, promotion, or retention of an individual, issuance of a security clearance, reporting an investigation of an individual, award or other benefit, to the extent that the information is relevant to such agency's decision on the matter.

9. Disclosure to the Office of Government Ethics (OGE) for any purpose consistent with OGE's mission, including the compilation of statistical data, or the mission of the OIG.

10. Disclosure to a Board of Contract Appeals, the General Accounting Office or other tribunal hearing a bid protest involving a Corporation or OIG procurement.

11. Disclosure to a domestic, foreign or international government law enforcement agency maintaining civil, criminal or other relevant enforcement information, or other pertinent information, in order that the OIG may obtain information relevant to a decision concerning the assignment, hiring, promotion, or retention of an individual, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

12. Disclosure to the Department of Justice in order to obtain the Department's advice regarding OIG's obligations under the Freedom of Information Act.

13. Disclosure to the Office of Management and Budget (OMB) in order to obtain OMB's advice regarding OIG's obligations under the Privacy Act.

14. Disclosure to a member of Congress making a request at the behest of a party protected under the Privacy Act, when the member of Congress informs the appropriate official that the individual to whom the record pertains has authorized the member of Congress to have access.

15. Disclosure to any Federal agency pursuant to the receipt of a valid subpoena.

16. Disclosure to the U.S. Department of the Treasury or the U.S. Department of Justice when the Corporation or the OIG is seeking to obtain taxpayer information from the Internal Revenue Service.

17. Disclosure to debt collection contractors for the purpose of collecting delinquent debts as authorized by the Debt Collection Improvement Act of 1996 (31 U.S.C. 3713).

18. Disclosure to a ''consumer reporting agency'' as that term is defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)), and the Federal Claims Collection Act of 1966 (31 U.S.C. 3701 (a)(3)), in order to obtain information in the course of an investigation or audit.

19. Disclosure to Corporation or OIG counsel, an administrative hearing tribunal, or counsel to the adverse party, in Program Fraud Civil Remedies Act or other litigation.

20. Disclosure to a Federal, State, or local agency for use in computer matching programs to prevent and detect fraud and abuse in benefit or other programs, to support civil and criminal law enforcement activities of those agencies and their components, and to collect debts and overpayments owed to those agencies and their components.

21. Disclosure to any court, magistrate or administrative authority during the course of any litigation or settlement negotiations in which the Corporation is a party or has an interest. A record in the system of records may be disclosed in a proceeding before a court or adjudicative body before which the Corporation or the OIG is authorized to appear, or in the course of settlement negotiations involving—

(1) OIG, the Corporation, or any component thereof;

(2) Any employee of the OIG or the Corporation in his or her official capacity;

(3) Any employee of the Corporation in his or her individual capacity, where the Government has agreed to represent the employee; or

(4) The United States, where the OIG determines that the litigation is likely to affect the OIG or the Corporation or any of its components.

22. Disclosure to OIG's or the Corporation's legal representative, including the U.S. Department of Justice and other outside legal counsel, when the OIG or the Corporation is a party in actual or anticipated litigation or has an interest in such litigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The Office of the Inspector General Investigative Files consist of paper records maintained in folders and an automated data base maintained on computer diskettes. The folders and diskettes are stored in locked metal file cabinets. The file cabinets are located in the Office of the Inspector General.

RETRIEVABILITY:

The records are retrieved by a unique control number assigned to each investigation.

SAFEGUARD:

Records in the system are available only to those persons whose duties require such access. The records are kept in limited access areas during duty hours and in locked file cabinets in a locked office at all other times.

RETENTION AND DISPOSAL:

Records will be held in the office pursuant to General Records Schedule 22, June 1988, and will be destroyed by shredding or burning when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Inspector General, Office of the Inspector General, Corporation for National and Community Service, 1201 New York Avenue, NW., Washington, DC 20525.

NOTIFICATION PROCEDURE:

To determine whether this system of records contains a record pertaining to the requesting individual, the individual should write to the System Manager furnishing his or her name, address, telephone number, and social security number.

RECORD ACCESS PROCEDURES:

See Notification Procedures.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in this system of records should write to the System Manager, setting forth the basis for which the individual believes the record is incomplete, irrelevant, incorrect or untimely.

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from: Corporation staff and official Corporation records; current and former employees, contractors, grantees and their employees; subgrantees and their employees; AmeriCorps members or former members in Corporation-funded programs; and non-Corporation persons. Individuals to be interviewed and records to be examined are selected based on the nature of the allegations being investigated.

EXEMPTION CLAIMED FOR THE SYSTEM:

The Office of Inspector General published exemptions under 5 U.S.C. 552a(j) and (k).

CORPORATION-16

SYSTEM NAME:

Travel Authorization Files.

SYSTEM LOCATION:

Office of Accounting and Financial Management Services, Corporation for National and Community Service, 1201 New York Avenue, NW., Washington, DC, 20525.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Corporation employees or any other person invited to travel at the expense of the Corporation.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records consist of travel authorizations, vouchers, receipts, payment records, and other materials related to official travel.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Domestic Volunteer Service Act of 1973, as amended; the National and Community Service Act of 1990, as amended, and the Budget and Accounting Procedures Act of 1950, as amended.

PURPOSE(S):

To record and manage the payment of expenses for official travel.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See General Routine Uses contained in Preliminary Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders in locked metal file cabinets.

RETRIEVABILITY:

Records are indexed alphabetically by name.

SAFEGUARDS:

Records are available only to staff in the Office of Accounting and Financial Management Services, and other appropriate Corporation officials with the need for such records in the performance of their duties.

RETENTION AND DISPOSAL:

Records are held for three (3) years and then retired to the Federal Records Center.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Accounting and Financial Management Services, Corporation for National and Community Service, 1201 New York Avenue NW., Washington, DC 20525.

NOTIFICATION PROCEDURE:

To determine whether there is a record in the system about an individual, that individual should submit a request in writing to the System Manager giving name, taxpayer identification number, and address.

RECORD ACCESS PROCEDURES:

See Notification procedures.

CONTESTING RECORD PROCEDURES:

Anyone desiring to contest or amend information contained in this system should write to the System Manager and set forth the basis for which the record is believed to be incomplete or incorrect.

RECORD SOURCE CATEGORIES:

Data in this system is obtained from documents submitted by individuals engaging in official travel as well as documents issued by the Corporation officials involved with authorizing and managing travel.

EXEMPTION CLAIMED FOR THE SYSTEM:

None.

CORPORATION-17

SYSTEM NAME:

Momentum Financials Vendor Files.

SYSTEM LOCATION:

Office of Accounting and Financial Management Services, Corporation for National and Community Service, 1201 New York Avenue, NW., Washington, DC, 20525.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All individuals with whom the Corporation does business.

CATEGORIES OF RECORDS IN THE SYSTEM:

The data recorded includes the name and address of the entity doing business with the Corporation, ABA routing number, financial institution name and address, depositor account number and the taxpayer identification number; e.g., the SSN of an individual and the TIN of an organization.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Domestic Volunteer Service Act of 1973, as amended; the National and Community Service Act of 1990, as amended, and the Budget and Accounting Procedures Act of 1950, as amended.

PURPOSE(S):

To maintain a single registry of entities with which the agency does business.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Data is shared with the Department of Health and Human Services in the servicing of Corporation grant recipients; data may be disclosed to the U.S. Department of Justice, the U.S. Department of Treasury or the General Accounting Office in connection with debt servicing activities or to the Internal Revenue Service in the reporting of disbursements as required by the Internal Revenue Code. Also, see General Routine Uses contained in Preliminary Statement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Data is stored on magnetic media in a computer system with access controlled by a security system that requires passwords and identification of each user.

RETRIEVABILITY:

Data can be retrieved from the system electronically by name or TIN.

SAFEGUARDS:

Access to data stored on magnetic media is controlled by a security system that requires password and identification of each user.

RETENTION AND DISPOSAL:

Records are held for three (3) years and then retired to the Federal Records Center.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Accounting and Financial Management Services, Corporation for National and Community Service, 1201 New York Avenue, NW., Washington, DC, 20525.

NOTIFICATION PROCEDURE:

To determine whether there is a record in the system of records about an individual, that individual should submit a request in writing to the System Manager giving name, taxpayer identification number, and address.

RECORD ACCESS PROCEDURES:

See Notification procedures.

CONTESTING RECORD PROCEDURES:

Anyone desiring to contest or amend information contained in this system should write to the System Manager and set forth the basis for which the record is believed to be incomplete or incorrect.

RECORD SOURCE CATEGORIES:

Data in this system is obtained from documents submitted by individuals covered by the system as well as documents issued by the Corporation officials involved with managing funds.

EXEMPTION CLAIMED FOR THE SYSTEM:

None.

CORPORATION-18

SYSTEM NAME:

AmeriCorps*VISTA Volunteer Management System Files.

SYSTEM LOCATION:

Office of Accounting and Financial Management Services, AmeriCorps*VISTA Payroll Office, Corporation for National and Community Service, 1201 New York Avenue, NW., Washington, DC, 20525.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former AmeriCorps*VISTA members.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include name, address, social security number, data concerning the individual's sex, marital status, skills, service as an AmeriCorps*VISTA member, including dates served and projects served, amounts paid to the member while serving, amounts overpaid, and repayment records of such overpayment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Domestic Volunteer Service of 1973, as amended, and the Budget and Accounting Procedures Act of 1950, as amended.

PURPOSE(S):

To record payments and allowances to AmeriCorps*VISTA members.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See General Routine Uses contained in Preliminary Statement. Information is also disclosed to the Social Security Administration and the Internal Revenue Service about the funds paid to comply with legal requirements that enable these agencies to perform their functions. Data from the system is also disclosed to the Financial Management Service of the U.S. Department of the Treasury to enable payments to be made.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual data is stored alphabetically in locked filing cabinets that are kept in a room that is only used for storing such materials. That room is kept locked except when employees who work with the AmeriCorps*VISTA member payroll system are using the data. Access by all other individuals is not allowed. Data is also stored on magnetic media in a computer system with access controlled by a security system that requires passwords and identification of each user.

RETRIEVABILITY:

Data can be retrieved by individual name for manual records or by social security number for automated records.

SAFEGUARDS:

The storage room is kept locked except when employees who work with the AmeriCorps*VISTA member payroll system are using the data. Access by all other individuals is not allowed. Access to data stored on magnetic media is controlled by a security system that requires passwords and identification of each user.

RETENTION AND DISPOSAL:

Records are held for three (3) years and then retired to the Federal Records Center.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Accounting and Financial Management Services, Corporation for National and Community Service, 1201 New York Avenue, NW., Washington, DC 20525.

NOTIFICATION PROCEDURE:

To determine whether there is a record in the system of records about an individual, that individual should submit a request in writing to the System Manager giving name, taxpayer identification number, and address.

RECORD ACCESS PROCEDURES:

See Notification procedure.

CONTESTING RECORD PROCEDURES:

Anyone desiring to contest or amend information contained in this system should write to the System Manager and set forth the basis for which the record is believed to be incomplete or incorrect.

RECORD SOURCE CATEGORIES:

Data in this system is obtained from documents submitted by individuals covered by the system as well as documents issued by Corporation officials involved with managing funds.

EXEMPTION CLAIMED FOR THE SYSTEM:

None.

Dated: January 24, 2002.

Frank R. Trinity,

General Counsel.

[FR Doc. 02–2240 Filed 1–29–02; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF DEFENSE

Department of the Army

Availability of U.S. Patent Application for Non-Exclusive, Exclusive, or Partially Exclusive Licensing for Chemical and Biological Sampling Device and Kit and Method of Use Thereof

AGENCY: U.S. Army Soldier and Biological Chemical Command (SBCCOM), DoD.

ACTION: Notice.

SUMMARY: In accordance with 35 U.S.C. 209 and 37 CFR part 404 announcement is made of the availability for licensing of the following U.S. Patent application for non-exclusive, exclusive, or partially exclusive licensing. The patent application listed below has been assigned to the United States Government as represented by the Secretary of the Army, Washington, DC.

Title: ''Chemical and Biological Sampling Device and Kit and Method of Use Thereof.''

Description: The present invention relates to a sampling device and kit for collecting chemical and biological samples in a wet or dry format. The invention provides a means to easily collect chemical and biological samples, safely transport the collected samples with no leakage, and safely dispense a collected sample into a sterile capture

vial/bottle for analysis that provides for optimum sample recovery and has been designed to be easy to operate while wearing protective gear.

Patent Application Number: 09/974,436.

Filing Date: October 10, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. John Biffoni, Intellectual Property Attorney, U.S. Army SBCCOM, ATTN: AMSSB–CC (Bldg E4435), APG, MD 21010–5424, Phone: (410) 436–1158; FAX: 410–436–2534 or E-mail: *John.Biffoni@sbccom.apgea.army.mil.*

SUPPLEMENTARY INFORMATION: None.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 02–2216 Filed 1–29–02; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DOD.

ACTION: Notice to add a system of records.

SUMMARY: The Department of the Army is adding a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action is effective without further notice on March 1, 2002 unless comments are received which result in a contrary determination.

ADDRESSES: Records Management Division, U.S. Army Records Management and Declassification Agency, ATTN: TAPC–PDD–RP, Stop 5603, 6000 6th Street, Ft. Belvoir, VA 22060–5603.

FOR FURTHER INFORMATION CONTACT: Ms. Janice Thornton at (703) 806–4390 or DSN 656–4390 or Ms. Christie King at (703) 806–3711 or DSN 656–3711.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on January 22, 2002, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: January 24, 2002.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

A0500–3c DAMO

SYSTEM NAME:

Emergency Relocation Group (ERG) Roster Files.

SYSTEM LOCATION:

Headquarters, Department of the Army, Army Continuity of Operations Program Office, 400 Army Pentagon, Washington, DC 20310–0400.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Personnel at Headquarters, Department of the Army and all associated Field Operating Agencies designated to occupy key positions that directly support the Continuity of Operation plan when an emergency situation develops.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, office/home/cellular/pager telephone numbers, the last four numbers of the individual's Social Security Number and relocation assignment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013, Secretary of the Army; E.O. 12656, Assignment of Emergency Preparedness Responsibilities; DoD Directive 3020.26, Continuity of Operations Policy and Planning; and Army Regulation 500–3, Army Continuity of Operations.

PURPOSE(S):

To notify designated Headquarters, Department of the Army personnel as to their responsibilities and relocation assignments in conditions of emergency. The Dialogic Communicator will execute the notification of the Emergency Relocation Group (ERG). Therefore, ERG members will ensure the execution of essential missions and functions during the emergency situation.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' set forth at the beginning of the agency's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on paper and on electronic media.

RETRIEVABILITY:

Information is retrieved by individual's name.

SAFEGUARDS:

The building in which the system is housed employs security guards. Records that are maintained are in areas that are accessible only to authorized personnel who are properly screened, cleared, and trained. Access to personal information is restricted to those who require the records in the performance of official duties.

RETENTION AND DISPOSAL:

Disposition pending (until the National Archives and Records Administration approves retention and disposal schedule, records will be treated as permanent).

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Division Chief, Headquarters, Department of the Army, Army Continuity of Operations Program Office, 400 Army Pentagon, Washington, DC 20310–0400.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Privacy Administrator, Headquarters, Department of the Army, Army Continuity of Operations Program Office, 400 Army Pentagon, Washington, DC 20310–0400.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Privacy Administrator, Headquarters, Department of the Army, Army Continuity of Operations Program Office, 400 Army Pentagon, Washington, DC 20310–0400.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 02–2174 Filed 1–29–02; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to Alter a System of Records.

SUMMARY: The Department of the Army is altering a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

The alteration separate an existing routine use into three, and adds another to the Department of Veteran's Affairs to verify occupational radiation exposure for evaluating veterans benefit claims.

DATES: This proposed action will be effective without further notice on March 1, 2002 unless comments are received which result in a contrary determination.

ADDRESSES: Records Management Division, U.S. Army Records Management and Declassification Agency, ATTN: TAPC–PDD–RP, Stop 5603, 6000 6th Street, Ft. Belvoir, VA 22060–5603.

FOR FURTHER INFORMATION CONTACT: Ms. Janice Thornton at (703) 806–4390 or DSN 656–4390 or Ms. Christie King at (703) 806–3711 or DSN 656–3711.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on January 22, 2002, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: January 24, 2002.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.,

A0040–14 DASG

SYSTEM NAME:

Radiation Exposure Records (August 7, 1997, 62 FR 42529).

CHANGES:

SYSTEM IDENTIFIER:

Change entry to read 'A0040–11 DASG'.

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with 'All active duty Army, Reserve Army National Guard, and persons employed by the Army to include contractors, who are occupationally exposed to radiation or radioactive materials.

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete 'Automated' and 'data elements such as' from first paragraph. Delete ', experience, . . . to exposed dosimetry film;' and 'harmful chemical, biological and,' from entry. Add 'external and internal exposure to ionizing radiation'.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with '10 U.S.C. 3013, Secretary of the Army; 29 U.S.C. Chapter 15, Occupational Safety and Health; Army Regulation 11–9, The Army Radiation Safety Program; Army Regulation 40–5, Preventive Medicine; Army Regulation 40–13, Medical Support—Nuclear Chemical Accidents and Incidents; Department of the Army Pamphlet 40–18, Personnel Dosimetry Guidance and Dose Recording Procedures for Personnel Occupationally Exposed to Ionizing Radiation; 10 CFR part 19, Nuclear Regulatory Commission; and E.O. 9397 (SSN).

PURPOSE(S):

Delete entry and replace with 'To monitor, evaluate, and control the risks of individual exposure to ionizing radiation or radioactive materials by comparison of test for short and long term exposure. Conduct investigations of occupational health hazards and relevant management studies and ensure efficiency in maintenance of prescribed safety standards. As well as ensure individual qualifications and education in handling radioactive materials are maintained.'

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete second paragraph and replace with 'To the National Cancer Institute for epidemiologiocal studies to assess the effects of occupational radiation exposure.

To the Center for Disease Control for epidemiological studies to assess the effects of occupational radiation exposure.

To the National Council on Radiation Protection and Measurement to research and evaluated radiation exposure levels for use in the development of guidance and recommendations on radiation protections and measurements.

To the Department of Veteran's Affairs to verify occupational radiation exposure for evaluating veterans benefit claims.'

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with 'Professional consultant control files destroy 1 year after termination. Clinical and pathological lab reports destroy when no longer needed for conducting business. Personnel dosimetry files destroy after 75 years. Personnel bioassays maintained by safety officers destroy after individual leaves the organizations or is no longer occupationally exposed; all other personnel bioassays are destroyed after 75 years. Ionizing radiation authorized personnel user listings destroy 5 years after transfer or separation of individual.

Radiation incident cases-disposition pending National Archive and Records Administration (NARA) approval. Until retention and disposal is provided by NARA, treat records as permanent.

* * * * *

A0040–11 DASG

SYSTEM NAME:

Radiation Exposure Records.

SYSTEM LOCATION:

Army installations, activities, laboratories, etc., which use or store radiation producing devices or radioactive materials or equipment. An automated segment exists at Redstone Arsenal, AL 35898–5000.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All active duty Army, Reserve Army National Guard, and persons employed by the Army, to include contractors, who are occupationally exposed to radiation or radioactive materials.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records contain individual's name, Social Security Number, date of birth,

film badge number, coded cross-reference to place of assignment at time of exposure, dates of exposure and radiation dose, cumulative exposure, type of measuring device, and coded cross-reference to qualifying data regarding exposure readings.

Documents reflecting individual's training, external and internal exposure to ionizing radiation, reports of investigation, reports of radiological exposures, and relevant management reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013, Secretary of the Army; 29 U.S.C. Chapter 15, Occupational Safety and Health; Army Regulation 11–9, The Army Radiation Safety Program; Army Regulation 40–5, Preventive Medicine; Army Regulation 40–13, Medical Support—Nuclear Chemical Accidents and Incidents; Department of the Army Pamphlet 40–18, Personnel Dosimetry Guidance and Dose Recording Procedures for Personnel Occupationally Exposed to Ionizing Radiation; 10 CFR part 19, Nuclear Regulatory Commission and E.O. 9397 (SSN).

PURPOSE(S):

To monitor, evaluate, and control the risks of individual exposure to ionizing radiation or radioactive materials by comparison of test for short and long term exposure. Conduct investigations of occupational health hazards and relevant management studies and ensure efficiency in maintenance of prescribed safety standards. As well as ensure individual qualifications and education in handling radioactive materials are maintained.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the National Cancer Institute for epidemiological studies to assess the effects of occupational radiation exposure.

To the Center for Disease Control for epidemiological studies to assess the effects of occupational radiation exposure.

To the National Council on Radiation Protection and Measurement to research and evaluated radiation exposure levels for use in the development of guidance and recommendations on radiation protections and measurements.

To the Department of Veteran's Affairs to verify occupational radiation exposure for evaluating veterans benefit claims.

The DoD 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Papers in file folders, film packets, magnetic/tapes/discs.

RETRIEVABILITY:

By individual's name and/or Social Security Number.

SAFEGUARDS:

Access to all records is restricted to designated individuals having official need therefore in the performance of assigned duties. In addition, access to automated records is controlled by Card Key System, which requires positive identification and authorization.

RETENTION AND DISPOSAL:

Professional consultant control files destroy 1 year after termination. Clinical and pathological lab reports destroy when no longer needed for conducting business. Personnel dosimetry files destroy after 75 years. Personnel bioassays maintained by safety officers destroy after individual leaves the organizations or is no longer occupationally exposed; all other personnel bioassays are destroyed after 75 years. Ionizing radiation authorized personnel user listings destroy 5 years after transfer or separation of individual.

Radiation incident cases (Disposition pending National Archive and Records Administration (NARA) approval. Until retention and disposal is provided by NARA, treat records as permanent).

SYSTEM MANAGER(S) AND ADDRESS:

Commander, U.S. Army Aviation Missile Command Ionizing Radiation Dosimetry Branch, Building 5417, Redstone Arsenal, AL 35898–5000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to Commander, U.S. Army Aviation Missile Command Ionizing Radiation Dosimetry Branch, Building 5417, Redstone Arsenal, AL 35898–5000.

Individual must furnish full name, Social Security Number, dates and locations at which exposed to radiation or radioactive materials, etc., and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to Commander, U.S. Army Aviation Missile Command Ionizing Radiation Dosimetry Branch, Building 5417, Redstone Arsenal, AL 35898–5000.

Individual must furnish full name, Social Security Number, dates and locations at which exposed to radiation or radioactive materials, etc., and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual, dosimetry film, Army and/or DoD records and reports.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 02–2175 Filed 1–29–02; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement (EIS) for the Myrtle Grove Ecosystem Restoration Analysis, LA

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: Estimates show that approximately 30 square miles of coastal wetlands convert to open water in Louisiana each year. Causes of wetland loss are as varied and complex as wetland location and type. Wetland loss has been attributed to the loss of freshwater, nutrient, and sediment input from the Mississippi River due the construction of flood protection levees, salt water intrusion, oil and gas access canals, navigation channels, subsidence, and sea level rise. The loss of wetlands leads to serious negative impacts on fish and wildlife populations, hurricane protection, and the economy of Louisiana and the nation. If flows of freshwater, nutrient, and sediment from the Mississippi River into wetlands were reestablished, then lost coastal wetland ecosystem structure and function would be restored to a sustainable level.

FOR FURTHER INFORMATION: Questions concerning the EIS should be addressed to Mr. Sean Mickal at (504) 862–2319. Mr. Mickal may also be reached at FAX number (504) 862–2572 or by E-mail at sean.p.mickal@mvn02.usace.army.mil. Mr. Mickal's address is U.S. ARMY CORPS OF ENGINEERS, PM–RS, P.O. BOX 60267, NEW ORLEANS, LA 70160–0267.

SUPPLEMENTARY INFORMATION:

1. Authority

The U.S. Army Corps of Engineers, New Orleans District, at the direction of the Louisiana Coastal Wetlands Conservation and Restoration Task Force, is initiating this study under the authority of the Coastal Wetlands Planning, Protection and Restoration Act, Pub. L. 101–646. This act includes funds for the planning of measures for the creation, restoration, protection and enhancement of coastal wetlands.

2. Proposed Action

The proposed action would restore, enhance, and sustain the coastal wetlands ecosystem west of the Mississippi River in Barataria Basin, Louisiana. This ecosystem is located approximately 25–30 miles due south of New Orleans, Louisiana, in Plaquemines, Jefferson, and Lafourche parishes. This action would attempt to utilize the nutrients, freshwater, and sediment of the Mississippi River for this restoration. The objective is to reestablish ecosystem functions lost with wetlands deterioration and would increase the wetland acreage and biodiversity of the ecosystem. Environmental analysis would be used to determine the most practical plan, which would provide for the greatest overall public benefit. The recommended plan would restore degraded wetlands with the least adverse impacts to stakeholder interests.

3. Alternatives

Alternatives recommended for consideration presently include the construction of one or more river diversion structures in the vicinity of Myrtle Grove, dedicated dredging to construct wetlands, the construction of outfall management structures, and combinations of the above. Various capacities for the diversion structure(s) would be investigated. Various increments of dedicated dredging and increments of long-term diversion amounts would also be investigated.

4. Scoping

Scoping is the process for determining the scope of alternatives and significant issues to be addressed in the EIS. For this analysis, a letter will be sent to all parties believed to have an interest in the analysis, requesting their input on alternatives and issues to be evaluated. The letter will also notify interested parties of public scoping meetings that will be held in the local area. Notices will also be sent to local news media. All interested parties are invited to comment at this time, and anyone interested in this study should request to be included in the study mailing list.

A series of public scoping meetings will be held in the early part of 2002. These meetings will be held in Plaquemines and Jefferson Parishes, Louisiana. Additional meetings could be held, depending upon interest and if it is determined that further public coordination is warranted.

5. Significant Issues

The tentative list of resources and issues that would be evaluated in the EIS includes tidally influenced coastal wetlands (marshes and swamps), aquatic resources, commercial and recreational fisheries, wildlife resources, essential fish habitat, water quality, air quality, threatened and endangered species, recreation resources, and cultural resources. Socioeconomic items that would be evaluated in the EIS include navigation, flood protection, business and industrial activity, employment, land use, property values, public/community facilities and services, tax revenues, population, community and regional growth, transportation, housing, community cohesion, and noise.

6. Environmental Consultation and Review

The U.S. Fish and Wildlife Service (USFWS) will be assisting in the documentation of existing conditions and assessment of effects of project alternatives through Fish and Wildlife Coordination Act consultation procedures. The USFWS will also provide a Fish and Wildlife Coordination Act report. Consultation will also be accomplished with the USFWS and the National Marine Fisheries Service (NMFS) concerning threatened and endangered species and their critical habitat. The NMFS will be consulted on the effects of this proposed action on Essential Fish Habitat. The draft EIS or a notice of its availability will be distributed to all interested agencies, organizations, and individuals.

7. Estimated Date of Availability

Funding levels will dictate when the draft EIS would be made available. The earliest date the draft EIS is expected to be available is the spring of 2004.

Dated: January 10, 2002.

Thomas F. Julich,

Colonel, U.S. Army, District Engineer.

[FR Doc. 02–2219 Filed 1–29–02; 8:45 am]

BILLING CODE 3710–84–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for Proposed Cape Wind Energy Project, Nantucket Sound and Yarmouth, MA Application for Corps Section 10/404 Individual Permit

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The New England District, Corps of Engineers, has received an application from Cape Wind Associates, LLC for a Section 10/404 Individual Permit for the installation and operation of 170 offshore Wind Turbine Generators (WTGs) in federal waters off the coast of Massachusetts on Horseshoe Shoal in Nantucket Sound, with the transmission lines going through Massachusetts state waters. The Corps has determined that an EIS is required for this proposed project, currently the first proposal of its kind in the United States. The applicant's stated purpose of the project is to generate up to 420 MW of renewable energy that will be distributed to the New England regional power grid, including Cape Code and the islands of Martha's Vineyard and Nantucket. The power will be transmitted to shore via a submarine cable system consisting of two 115kV lines to a landfall site in Yarmouth, Massachusetts. The submarine cable system will then interconnect with an underground cable system, where it will interconnect with an existing NSTAR 115kV electric transmission line for distribution.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and DEIS can be answered by Mr. Brian Valiton, Regulatory Division, U.S. Army Corps of Engineers, 696 Virginia Road, Concord, Massachusetts 01742–2751, Telephone No. (978) 318–8166, or by e-mail at *Brian.e.valiton@usace.army.mil.*

SUPPLEMENTARY INFORMATION: The proposed wind turbine array would occupy approximately 28 square miles in an area of Nantucket Sound known as Horseshoe Shoals between Nantucket

Island and the Cape Cod mainland. The northernmost turbines would be approximately 4.1 miles from the nearest land mass (Point Gammon), the southeastern most turbines would be approximately 11 miles from Nantucket, and the westernmost turbines will be approximately 5.5 miles from Martha's Vineyard. The array of generators was established in a northwest to southeast alignment to provide optimum utilization of the wind energy potential. The proposed submarine cable landfall location if Yarmouth, Massachusetts. Each wind power generating structure would generate up to 2.7 megawatts of electricity and would be up to 420 feet above the water surface. The proposed submarine cable system, consisting of two 115kV solid dielectric cable circuits, would be jet-plow embedded into the seabed to a depth of approximately 6 feet. The foundations of the WTGs may require scour protection. Scour protection would require the placement of stone riprap or concrete matting on the seabed surface surrounding the foundation. The overland cable system would be installed underground within existing public rights-of-way and roadways in the town of Yarmouth, Massachusetts, ultimately connecting to an existing 115kV electric transmission line for distribution. The approximate construction start date for the proposed project is 2004, with commercial operation starting in 2005.

Alternatives to be addressed in the EIS will include: the no action alternative; alternative wind park locations, including offshore vs. upland; submarine cable route alternatives; alternative landfall and overland cable route locations, and alternative connections to an NSTAR transmission line.

Significant issues to be analyzed in depth in the EIS will include impacts associated with construction, operation, maintenance and decommissioning of the wind turbines on the following resources: recreational and commercial boating and fishing activities, endangered marine mammals and reptiles, birds, aviation, benthic habitat, aesthetics, cultural resources, radio and television frequencies, ocean currents, and land resources.

Other Environmental Review and Consultation Requirements: To the fullest extent possible, the EIS will be integrated with analyses and consultation required by the Endangered Species Act of 1973, as amended (Pub. L. 93–205; 16 U.S.C. 1531, *et seq.*); the Magnuson-Stevens Fishery Conservation and Management Act, as amended (Pub. L. 94–265; 16 U.S.C. 1801, *et seq.*), the National Historic Preservation Act of 1966, as amended (Pub. L. 89–655; 16 U.S.C. 470, *et seq.*); the Fish and Wildlife Coordination Act of 1958, as amended (Pub. L. 85–624; 16 U.S.C. 661, *et seq.*); the Coastal Zone Management Act of 1972, as amended (Pub. L. 92–583; 16 U.S.C. 1451, *et seq.*); and the Clean Water Act of 1977, as amended (Pub. L. 92–500; 33 U.S.C. 1251, *et seq.*), Section 10 of the Rivers and Harbors Act of 1899, 33 U.S.C. 403 *et seq.*); the Outer Continental Shelf Lands Act (Pub. L. 95–372; 43 U.S.C. 1333(e)), and applicable and appropriate Executive Orders. Additionally, this EIS will be prepared concurrently with the requirements of the Massachusetts Environmental Policy Act (301 CMR 11.00 *et seq.*).

Scoping: The Corps will conduct an open scoping and public involvement process during the development of the EIS. The purpose of the scoping meetings is to assist the Corps in defining the issues that will be evaluated in the EIS. Scoping meetings will be held on March 6, 2002 starting at 1:30 pm at the JFK Federal Building, 55 New Sudbury St., Conference Room C, Boston, Massachusetts, and on March 7, 2002 starting at 6:30 pm at the Mattacheese Middle School, 400 Higgins Crowell Rd., West Yarmouth, Massachusetts. All interested Federal, State and local agencies, affected Indian tribes, interested private and public organizations, and individuals are invited to attend these scoping meetings.

The Draft EIS is anticipated to be available for public review in the summer of 2003.

Brian E. Osterndorf,

Col, En, Commander.

[FR Doc. 02–2217 Filed 1–29–02; 8:45 am]

BILLING CODE 3710–24–M

DEPARTMENT OF EDUCATION

Privacy Act of 1974; System of Records—Investigative Files of the Inspector General (18–10–01)

AGENCY: Department of Education.

ACTION: Correction.

SUMMARY: We publish this notice to correct the Investigative Files of the Inspector General (18–10–01) by restoring two items to the purpose clause, correcting the numbering of the routine uses, moving the substance of the computer matching routine use to the general list of routine uses and amending the introduction to the routine uses to include a statement that any of the routine use disclosures may be made on a case-by-case basis or through computer matching if the requirements for computer matching have been met, eliminating language in Disclosure 5, and clarifying the language of the Debarment and Suspension Disclosure. Our regular review of our system notices revealed the need for these clarifications and corrections.

DATES: The corrections in this notice are effective on January 30, 2002.

FOR FURTHER INFORMATION CONTACT: John Tressler, Office of Chief Information Officer, U.S. Department of Education, 400 Maryland Avenue, SW., room 5624 Regional Office Building 3, Washington, DC 20202–4580. Telephone: (202) 708–8900. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT.**

Corrections

The following corrections are made in the Notice of New, Amended, Altered and Deleted Systems of Records published in the **Federal Register** on June 4, 1999 (64 FR 30105):

On pages 30152 and 30153, beginning with the ''PURPOSE(S)'' section through the end of the ''ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:'' section on page 30153, first column, the notice is revised to read as follows:

PURPOSE(S):

Pursuant to the Inspector General Act, the system is maintained for the purposes of: (1) Conducting and documenting investigations by the Office of Inspector General (OIG) or other investigative agencies regarding Department of Education programs and operations and reporting the results of investigations to other Federal agencies, other public authorities or professional organizations which have the authority to bring criminal prosecutions or civil or administrative actions, or to impose other disciplinary sanctions; (2) documenting the outcome of OIG investigations; (3) maintaining a record of the activities that were the subject of investigations; (4) reporting investigative findings to other

Department of Education components for their use in operating and evaluating their programs or operations, and in the imposition of civil or administrative sanctions; (5) maintaining a record of complaints and allegations received relative to Department of Education programs and operations and documenting the outcome of OIG reviews of such complaints and allegations; (6) coordinating relationships with other Federal agencies, State and local governmental agencies, and nongovernmental entities in matters relating to the statutory responsibilities of the OIG; and (7) acting as a repository and source for information necessary to fulfill the reporting requirements of the Inspector General Act, 5 U.S.C. Appendix 3, 5.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information contained in a record in this system of records may be disclosed under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis, or if the requirements of the Computer Matching and Privacy Protection Act have been met under a computer matching agreement.

(1) *Disclosure for Use by Other Law Enforcement Agencies.* Information from this system of records may be disclosed as a routine use to any Federal, State, local, or foreign agency or other public authority responsible for enforcing, investigating, or prosecuting violations of administrative, civil, or criminal law or regulation where that information is relevant to any enforcement, regulatory, investigative, or prosecutorial responsibility of the receiving entity.

(2) *Disclosure to Public and Private Entities to Obtain Information Relevant to Department of Education Functions and Duties.* Information from this system of records may be disclosed as a routine use to public or private sources to the extent necessary to obtain information from those sources relevant to a Department investigation, audit, inspection or other inquiry.

(3) *Disclosure for Use in Employment, Employee Benefit, Security Clearance, and Contracting Decisions.*

(a) *For Decisions by the Department.* Information from this system of records may be disclosed as a routine use to a Federal, State, local, or foreign agency maintaining civil, criminal or other relevant enforcement or other pertinent records, or to another public authority or professional organization, if necessary to obtain information relevant to a Department decision concerning the hiring or retention of an employee or other personnel action, the issuance or retention of a security clearance, the letting of a contract, or the issuance or retention of a license, grant, or other benefit.

(b) *For Decisions by Other Public Agencies and Professional Organizations.* Information from this system of records may be disclosed as a routine use to a Federal, State, local, or foreign agency or other public authority or professional organization, in connection with the hiring or retention of an employee or other personnel action, the issuance or retention of a security clearance, the letting of a contract, or the issuance or retention of a license, grant or other benefit.

(4) *Disclosure to Public and Private Sources in Connection with the Higher Education Act of 1965, as Amended (''HEA'').* Information from this system of records may be disclosed as a routine use to any accrediting agency which is or was recognized by the Secretary of Education pursuant to the HEA; to any guaranty agency which is or was a party to an agreement with the Secretary of Education pursuant to the HEA; or to any agency which is or was charged with licensing or legally authorizing the operation of any educational institution or school which was eligible, is currently eligible, or may become eligible to participate in any program of Federal student assistance authorized by the HEA.

(5) *Litigation Disclosure.*

(a) *Disclosure to the Department of Justice.* If the disclosure of certain records to the Department of Justice is relevant and necessary to litigation and is compatible with the purpose for which the records were collected, those records may be disclosed as a routine use to the Department of Justice. Such a disclosure may be made in the event that one of the parties listed below is involved in the litigation, or has an interest in the litigation:

(i) The Department, or any component of the Department;

(ii) Any employee of the Department in his or her official capacity;

(iii) Any employee of the Department in his or her individual capacity where the Department of Justice has agreed to represent the employee or in connection with a request for such representation; or

(iv) The United States, where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Other Litigation Disclosure.* If disclosure of certain records to a court, adjudicative body before which the Department is authorized to appear, individual or entity designated by the Department or otherwise empowered to resolve disputes, counsel or other representative, or potential witness is relevant and necessary to litigation and is compatible with the purpose for which the records were collected, those records may be disclosed as a routine use to the court, adjudicative body, individual or entity, counsel or other representative, or potential witness. Such a disclosure may be made in the event that one of the parties listed below is involved in the litigation, or has an interest in the litigation:

(i) The Department, or any component of the Department;

(ii) Any employee of the Department in his or her official capacity;

(iii) Any employee of the Department in his or her individual capacity where the Department has agreed to represent the employee; or

(iv) The United States, where the Department determines that the litigation is likely to affect the Department or any of its components.

(6) *Disclosure to Contractors and Consultants.* Information from this system of records may be disclosed as a routine use to the employees of any entity or individual with whom or with which the Department contracts for the purpose of performing any functions or analyses that facilitate or are relevant to an OIG investigation, audit, inspection, or other inquiry. Before entering into such a contract, the Department shall require the contractor to maintain Privacy Act safeguards, as required under 5 U.S.C. 552a(m) with respect to the records in the system.

(7) *Debarment and Suspension Disclosure.* Information from this system of records may be disclosed as a routine use to another Federal agency considering suspension or debarment action where the information is relevant to the suspension or debarment action. Information may also be disclosed to another agency to gain information in support of the Department's own debarment and suspension actions.

(8) *Disclosure to the Department of Justice.* Information from this system of records may be disclosed as a routine use to the Department of Justice, to the extent necessary for obtaining its advice on any matter relevant to Department of Education operations.

(9) *Congressional Member Disclosure.* Information from this system of records may be disclosed to a member of Congress from the record of an individual in response to an inquiry

from the member made at the written request of that individual. The member's right to the information is no greater than the right of the individual who requested it.

(10) *Benefit Program Disclosure.* Records may be disclosed as a routine use to any Federal, State, local or foreign agency, or other public authority, if relevant to the prevention or detection of fraud and abuse in benefit programs administered by any agency or public authority.

(11) *Overpayment Disclosure.* Records may be disclosed as a routine use to any Federal, State, local or foreign agency, or other public authority, if relevant to the collection of debts and overpayments owed to any agency or public authority.

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To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO); toll free, at 1–888–293–6498; or in the Washington, DC area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.access.gpo.gov/nara/index.html*

Dated: January 25, 2002.

Craig B. Luigart,

Chief Information Officer.

[FR Doc. 02–2226 Filed 1–29–02; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02–73–000]

Cargill, Incorporated, Complainant, v. Saltville Gas Storage Company, LLC, Respondent; Notice of Complaint

January 24, 2002.

Take notice that on January 23, 2002, pursuant to sections 5, 7, and 16 of the Natural Gas Act (NGA) and Rule 206 of the Commission's Rules of Practice and Procedure, 18 CFR 385.206, Cargill, Incorporated, (Cargill) filed a Complaint against Saltville Gas Storage Company, LLC (''Saltville LLC'') requesting that the Commission issue an order requiring Saltville LLC to cease and desist from the construction of jurisdictional salt cavern storage facilities without a certificate. The Complaint alleges that Saltville LLC is attempting to circumvent the jurisdiction of this Commission by constructing and operating an interstate natural gas storage facility, in Saltville, Virginia under claim of State jurisdiction despite the fact that the overriding purpose of the facilities is to provide natural gas storage service in interstate commerce. Accordingly, Cargill respectfully requests that the Commission assert jurisdiction over Saltville LLC, order it to cease and desist from all construction activities, and require it to file an application for a certificate of public convenience and necessity with this Commission. Alternatively, Cargill requests that the Commission issue a cease and desist order accompanied by an order requiring Saltville LLC to show cause why the proposed storage facilities are not subject to the Commission's NGA jurisdiction.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests must be filed on or before February 12, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Answers to the complaint shall also be due on or before February 12, 2001. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See,* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

C.B. Spencer,

Acting Secretary.

[FR Doc. 02–2245 Filed 1–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2107–010 California]

Pacific Gas and Electric Company; Notice Rejecting Application and Soliciting Applications

January 24, 2002.

On October 2, 2001, the Pacific Gas and Electric Company (PG&E), licensee for the Poe Hydroelectric Project No. 2107, filed an application for a new license for the project, pursuant to section 15(b)(1) of the Federal Power Act (Act). The application was untimely filed, however, and a request for a license amendment that would have cured that deficiency was denied by the Commission in an order issued January 16, 2002.[1] Consequently, that license application is hereby rejected.

The project is located on the North Fork Feather River, in Butte County, California and occupies lands of the United States within the Plumas National Forest. The project consists of: (1) The 400-foot-long, 60-foot tall Poe Diversion Dam, including four 50-foot-wide by 41-foot-high radial flood gates, a 20-foot-wide by 7-foot-high small radial gate, and a small skimmer gate that is no longer used; (2) the 53-acre Poe Reservoir; (3) a concrete intake structure located on the shore of Poe Reservoir; (4) a pressure tunnel about 19 feet in diameter with a total length of about 33,000 feet; (5) a differential surge chamber located near the downstream end of the tunnel; (6) a steel underground penstock about 1,000 feet in length and about 14 feet in diameter; (7) a reinforced concrete powerhouse, 175-feet-long by 114-feet-wide, with two vertical-shaft Francis-type turbines rated at 76,000 horsepower connected to vertical-shaft synchronous generators rated at 79,350 kVA with a total installed capacity of 143 MW and an average annual generation of 584 gigawatt hours; (8) the 370-foot-long, 61-foot tall, concrete gravity Big Bend Dam; (9) the 42-acre Poe Afterbay Reservoir; and (10) appurtenant facilities.

As a result of the rejection of PG&E's application and pursuant to section 16.25 of the Commission's Regulations, the Commission is soliciting license applications from potential applicants. This is necessary because the deadline for filing an application for new license and any competing license applications, pursuant to section 16.9 of the regulations, was October 1, 2001, and no

[1] 98 FERC ¶ 61,032 (2002)

other applications for license for this project were filed.

The Commission's January 16, 2002, order waived those parts of Sections 16.24(a) and 16.25(a) which bar an existing licensee that missed the two-year application filing deadline from filing another license application. Consequently, PG&E will be allowed to compete for the license and the incumbent preference established by FPA section 15(a)(2) will apply.

The licensee is required to make available certain information described in section 16.7 of the regulations. For more information from the licensee contact Mr. Tom Jereb, Project Manager, Pacific Gas and Electric Company, P.O. Box 770000, N11D, San Francisco, CA 94177, (415) 973–9320.

A potential applicant that files a notice of intent within 90 days from the date of issuance of this notice: (1) may apply for a license under part I of the Act and part 4 (except section 4.38) of the Commission's Regulations within 18 months of the date on which it files its notice; and (2) must comply with the requirements of sections 16.8 and 16.10 of the Commission's Regulations.

Questions concerning this notice should be directed to John Mudre, (202) 219–1208 or *john.mudre@ferc.fed.us.*

C.B. Spencer,

Acting Secretary.

[FR Doc. 02–2248 Filed 1–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER94–1409–006, et al.]

Cambridge Electric Light Company, et al.; Electric Rate and Corporate Regulation Filings

January 24, 2002.

Take notice that the following filings have been made with the Commission. Any comments should be submitted in accordance with Standard Paragraph E at the end of this notice.

1. Cambridge Electric Light Company

[Docket Nos. ER94–1409–006 and EL94–88–006]

Take notice that, on January 17, 2002, Cambridge Electric Light Company (Cambridge) filed its Final Refund Report in the referenced dockets.

Comment Date: February 7, 2002.

2. Merrill Lynch Capital Services, Inc.

[Docket No. ER99–830–007]

Take notice that on January 18, 2002, Merrill Lynch Capital Services, Inc. (MLCS) filed with the Federal Energy Regulatory Commission (Commission) a triennial updated market analysis in compliance with the Commission's January 20, 1999 Order in Docket No. ER99–830–000, which authorized MLCS to sell power at market-based rates.

Comment Date: February 8, 2002.

3. Consolidated Edison Company of New York, Inc.

[Docket No. ER02–46–001]

Take notice that on January 18, 2002, Consolidated Edison Company of New York, Inc. (Con Edison) tendered for filing with the Federal Energy Regulatory Commission (Commission) a revised Interconnection Agreement by and between Con Edison and the Power Authority of the State of New York, dated August 1, 2001. The filing was made in compliance with the Commission's Letter Order issued November 29, 2001 in this proceeding.

Comment Date: February 8, 2002.

4. Midwest Independent Transmission System Operator Inc.

[Docket No. ER02–108–003]

Take notice that on January 17, 2002, the Midwest Independent Transmission System Operator, Inc. tendered for filing with the Federal Energy Regulatory Commission (Commission) its compliance filing pursuant to the Commission's December 20, 2001 Order Granting RTO Status, Midwest Independent Transmission System Operator, Inc., 97 FERC ¶ 61,326 (2001), in which the Commission directed the Midwest ISO to file its contract for Market Monitoring Services with Potomac Economics, Ltd.

Comment Date: February 7, 2002.

5. American Electric Power Service Corporation

[Docket No. ER02–282–001]

Take notice that on January 18, 2002, American Electric Power Service Corporation (AEPSC) tendered for filing with the Federal Energy Regulatory Commission (Commission) a Facilities, Operation and Maintenance Agreement (Facility Agreement) dated June 1, 2001, between AEP and Buckeye Rural Electric Cooperative, Inc. (BREC).

Comment Date: February 8, 2002.

6. Florida Power & Light Company

[Docket Nos. ER02–139–001 and ER02–139–002]

Take notice that on January 22, 2002, Florida Power & Light Company tendered for filing with the Federal Energy Regulatory Commission (Commission) a compliance filing in accordance with the December 20, 2001 Letter Order issued by the Commission in the above-referenced proceeding.

Comment Date: February 12, 2002.

7. Armstrong Energy Limited Partnership, LLLP and Troy Energy, LLC

[Docket Nos. ER02–300–002 and 301–002]

Take notice that on January 18, 2002, Armstrong Energy Limited Partnership, LLLP (Armstrong Energy); and Troy Energy, LLC (Troy Energy) filed Revised Power Purchase Agreements (Revised PPAs) with Virginia Electric and Power Company to comply with the Commission's order of December 21, 2001 in these proceedings.

Armstrong Energy and Troy Energy request that their Revised PPAs become effective on January 5, 2002.

Armstrong Energy and Troy Energy have served this filing on the Ohio Public Utilities Commission, the Pennsylvania Public Service Commission, the North Carolina Public Utilities Commission and the Virginia State Corporation Commission.

Comment Date: February 8, 2002.

8. MEP Clarksdale Power, LLC

[Docket No. ER02–309–001]

Take notice that on January 17, 2002, MEP Clarksdale Power, LLC (MEP Clarksdale) tendered for filing with the Federal Energy Regulatory Commission (Commission) an amendment to its rate schedule filing in this docket to respond to the Commission staff's January 10, 2002 deficiency letter.

Comment Date: February 7, 2002.

9. Midwest Independent Transmission System Operator Inc.

[Docket No. ER02–325–001]

Take notice that on January 17, 2002, the Midwest Independent Transmission System Operator, Inc. tendered for filing with the Federal Energy Regulatory Commission (Commission) its compliance filing pursuant to the Commission's December 19, 2001 Letter Order directing the Midwest ISO to file the Coordination Agreement By and Between Midwest Independent Transmission System Operator Inc. and Manitoba Hydro in conformance with the requirements of Order No. 614.

Comment Date: February 7, 2002.

10. Pacific Gas and Electric Company

[Docket No. ER02–637–001]

Take notice that on January 18, 2002, Pacific Gas and Electric Company (PG&E) tendered for filing an errata to

its December 27, 2001, filing of changes in rates for the Transmission Revenue Balancing Account Adjustment (TRBAA) rate set forth in its Transmission Owner Tariff (TO Tariff), the Reliability Services (RS) rates set forth in both its TO Tariff and its Reliability Services Tariff (RS Tariff) (certain customers' RS rates are in the TO Tariff while other customers' RS rates are in the separate RS Tariff) and the Transmission Access Charge Balancing Account Adjustment (TACBAA) also set forth in its TO Tariff.

With the exception of the TACBAA rate, these changes in rates are proposed to become effective January 1, 2002.

Copies of this filing have been served upon the California Independent System Operator (ISO), Scheduling Coordinators registered with the ISO, Southern California Edison Company, San Diego Gas & Electric Company, the California Public Utilities Commission and other parties to the official service lists in recent TO Tariff rate cases, FERC Docket Nos. ER00–2360–000 and ER01–66–000.

Comment Date: February 8, 2002.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

C.B. Spencer,

Acting Secretary.

[FR Doc. 02–2184 Filed 1–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project Nos. 2778–005, 2777–007, 2061–004, 1975–014]

Idaho Power Company; Notice of Intention To Hold a Public Meeting February 28th in Boise, ID for Discussion of the Draft Environmental Impact Statement for the Mid-Snake River Hydroelectric Projects

January 24, 2002.

On January 17, 2002, the Commission staff delivered the Mid-Snake River Hydroelectric Projects (Shoshone Falls, Upper Salmon Falls, Lower Salmon Falls and Bliss) Draft Environmental Impact Statement (DEIS) to the U.S. Environmental Protection Agency, resource and land management agencies, and interested organizations and individuals. The DEIS evaluates the environmental consequences of the continued operation of the Mid-Snake River Hydroelectric Projects in Idaho.

The DEIS was noticed in the **Federal Register** and comments are due March 27, 2002.

Commission staff will conduct a public meeting to present the DEIS findings, answer questions about the findings and solicit public comment on the DEIS. The public meeting will be recorded by a court reporter, and all meeting statements (oral or written) will become part of the Commission's public record of this proceeding.

The meeting will be held Thursday, February 28, 2002 in the Merlins Room, at the Boise Centre on the Grove, 850 West Front Street, (Grove Plaza Entrance), Boise Idaho. Two meeting times are scheduled: 9:30 a.m.–4 p.m. for agencies and organizations and 7–9:30 p.m. for the public. Anyone may attend one or both meetings

For further information, please contact John Blair, at (202)219–2845, Federal Energy Regulatory Commission, Office of Energy Projects, 888 First Street NE., Washington, DC 20426.

C.B. Spencer,

Acting Secretary.

[FR Doc. 02–2249 Filed 1–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project Nos. 135–016–OR and 2195–008–OR]

Portland General Electric; Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

January 24, 2002.

a. *Type of Filing:* Amendment of license.

b. *Project No:* 135 and 2195.

c. *Date Filed:* November 28, 2001.

d. *Applicant:* Portland General Electric.

e. *Name of Project:* Oak Grove and North Fork Projects.

f. *Location:* The projects are located on the Oak Grove Fork and Clackamas River, near city of Estacada, in Clackamas County, Oregon.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r), Section 4.201 of the Commission's Regulations.

h. *Applicant Contact:* Julie Keil, Director Hydro Licensing, Portland General Electric Co., 121 SW Salmon St., 3WTC√BRHL, Portland, OR 97204, (503) 464–8864.

i. *FERC Contact:* William Guey-Lee, (202) 219–2808, or william.gueylee@ferc.fed.us.

j. *Deadline for filing comments, motions to intervene or protests:* 30 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The applicant is proposing to amend the project licenses to permit the replacement of one turbine runner at the Faraday development of Project No. 2195, permit the upgraded operation of a new runner installed at the North Fork

development of Project No. 2195, modify the spillway at the River Mill development of Project No. 2195, construct a new fish ladder and downstream bypass outfall at the River Mill development, and combine the licenses of Project Nos. 135 and 2195. The Oak Grove and North Fork Projects are currently operated under two separate licenses that will expire on August 31, 2006. The projects occupy U.S. lands within Mt. Hood National Forest.

l. *Location of the Filing:* A copy of the filing is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

n. A scoping document is also being mailed out concurrently for comment.

C.B. Spencer,

Acting Secretary.

[FR Doc. 02–2246 Filed 1–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

January 24, 2002.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment of license to add Shoreline Management Plan

b. *Project No:* 2206–021

c. *Date Filed:* December 28, 2001

d. *Applicant:* Carolina Power &Light Company

e. *Name of Project:* Tillery Hydroelectric Project

f. *Location:* On the Pee Dee River in Montgomery and Stanley Counties, North Carolina. The project does not utilize federal or tribal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 USC 791(a)–825(r).

h. *Applicant Contact:* Mr. Larry Mann, Carolina Power & Light Company, Tillery Hydro Plant, 179 Tillery Dam Road, Mt. Gilead, NC 27306. Phone: (910) 439–5211, ext. 1202.

i. *FERC Contact:* Any questions on this notice should be addressed to Shana High at (202) 208–2266, or e-mail address: shana.high@ferc.fed.us.

j. *Deadline for filing comments and/or motions:* March 6, 2002.

All documents (original and eight copies) should be filed with: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington DC 20426. Please include the project number (2206–021) on any comments or motions filed.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

k. *Description of Proposal:* CP&L developed a Shoreline Management Plan (SMP) to provide greater protection of the Lake Tillery shoreline, while ensuring safe and reliable production of hydroelectric power at the project. In the proposed plan, the licensee designates certain land classifications for its 118 miles of shorelines. These designations, including Environmental/Natural, Potential Development Areas, and Impact Minimization Zones will allow the licensee to manage lands for future uses. The SMP can be viewed at www.cpl.com by clicking ''Our Environment'', ''Lake Tillery Shoreline Management'', ''View Documents Online''.

l. *Locations of the Application:* Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' and follow the instructions (call 202–208–2222 for assistance).

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be

obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

C.B. Spencer,

Acting Secretary.

[FR Doc. 02–2247 Filed 1–29–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2042]

PUD #1 of Pend Oreille County; Notice of Teleconference Meeting for the Box Canyon Hydroelectric Project

January 24, 2002.

a. *Date and Time of Meeting:* February 26, 2002, 1 p.m. EST to 3:30 p.m. EST.

b. *Place:* By copy of this notice we are inviting U.S. Forest Service, U.S. Department of the Interior, Washington Department of Fish & Wildlife and Idaho Department of Fish & Game, and other interested parties to participate in a teleconference from their telephone location.

c. *FERC Contact:* Timothy Welch at (202) 219–2666: *timothy.welch@ferc.fed.us*.

d. *Purpose of the Meeting:* The Federal Energy Regulatory Commission seeks clarification of resource agency comments, mandatory conditions, and recommended protection, mitigation, and enhancement measures filed in response to our Notice of Ready for Environmental Analysis issued September 4, 2001.

e. *Proposed Agenda:*

A. Clarification of resource agency comments, mandatory conditions, and recommended protection, mitigation and enhancement measures.

B. FERC's schedule for issuing the Draft Environmental Impact Statement.

f. All local, state, and federal agencies, Indian Tribes and interested parties, are hereby invited to participate in this meeting. If you want to participate by teleconference, please register with either Timothy Welch at the number listed above or with Leslie Smythe at (781) 444–3330 ext. 481: *lsmythe@louisberger.com* NO LATER THAN close of business February 21, 2002.

C.B. Spencer,

Acting Secretary.

[FR Doc. 02–2250 Filed 1–29–02; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7135–8]

Agency Information Collection Activities: Request for Comments on Seven Proposed Information Collection Requests (ICRs)

AGENCY: United States Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit the seven continuing Information Collection Requests (ICRs) listed in Section A of this notice to the Office of Management and Budget (OMB). Before submitting the ICRs to OMB for review and approval, EPA is soliciting comments on specific aspects of the information collections as described at the beginning of the **SUPPLEMENTARY INFORMATION** provided in this notice.

DATES: Comments must be submitted on or before April 1, 2002.

ADDRESSES: Compliance Assessment and Media Programs Division, Office of Compliance, Office of Enforcement and Compliance Assurance, Mail Code 2223A, United States Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. A hard copy of a specific ICR may be obtained without charge by calling the identified information contact person listed in Section B under **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: For specific information on an individual ICR, contact the person listed in Section B under **SUPPLEMENTARY INFORMATION.**

SUPPLEMENTARY INFORMATION:

For All ICRs

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are displayed in 40 CFR Part 9.

The EPA would like to solicit comments to:

(i) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information;

(iii) enhance the quality, utility, and clarity of the information to be collected; and

(iv) minimize the burden of the collection of information on those who respond through the use of automated, electronic, mechanical, or other forms of information technology.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

In the absence of such information collection requirements, enforcement personnel would be unable to determine whether the standards are being met on a continuous basis, as required by the Clean Air Act. Consequently, these information collection requirements are mandatory, and the records required by New Source Performance Standards (NSPS) must be retained by the owner or operator for at least two years; records required by the National Emission Standards for Hazardous Air Pollutants (NESHAP) must be retained by the owner or operator for at least five years; and records required by the NESHAP Maximum Achievable Control Technology standards (NESHAP–MACT) must be retained by the owner or operator for at least five years. In general, the required information consists of emissions data and other information deemed not to be private. However, any information submitted to the Agency for which a claim of confidentiality is made will be safeguarded according to the Agency policies set forth in Title 40, Chapter 1, Part 2, Subpart B—Confidentiality of Business Information (See 40 CFR Part 2; 41 FR 36902, September 1, 1976; amended by 43 FR 39999, September 8, 1978; 43 FR 42251, September 28, 1978; 44 FR 17674, March 2, 1979).

The Agency computed the burden for each of the recordkeeping and reporting requirements applicable to the industry for the currently approved ICRs. Where applicable, the Agency identified specific tasks and made assumptions, while being consistent with the concept of the Paper Work Reduction Act.

Section A: List of ICRs To Be Submitted for OMB Approval

In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following seven continuing ICRs to OMB.

(1) *NESHAP Subpart BB:* National Emission Standards for Hazardous Air Pollutants (NESHAP) for Benzene Emissions from Bulk Transfer Operations; EPA ICR Number 1154.06; OMB Number 2060–0182; expiration date May 31, 2002.

(2) *NESHAP Subpart HHH:* NESHAP—Oil and Natural Gas Transmission and Storage (40 CFR Part 63, Subpart HHH); EPA ICR Number 1789.03; OMB Number 2060–0418; expiration date July 31, 2002.

(3) *NESHAP Subpart HH:* NESHAP—Oil and Natural Gas Production; EPA ICR Number 1788.03; OMB Number 2060–0417; expiration date July 31, 2002.

(4) *NSPS Subpart J:* NSPS for Petroleum Refineries (Subpart J); EPA ICR Number 1054.08; OMB Number 2060–0022; expiration date August 31, 2002.

(5) *NSPS Subpart GGG:* NSPS for Petroleum Refineries (Subpart GGG); EPA ICR Number 0983.06; OMB Number 2060–0067; expiration date October 31, 2002.

(6) *NESHAP–MACT Subpart PPP:* NESHAP for Polyether Polyol Production; EPA ICR Number 1811.03; OMB Control Number 2060–0415; expiration date July 31, 2002.

(7) *NSPS Subpart WWW:* NSPS for Municipal Solid Waste Landfills (40 CFR Part 60, Subpart WWW); EPA ICR Number 1557.05; OMB Number 2060–0220; expiration date September 30, 2002.

Section B: Contact Person for Individual ICRs

(1) *NESHAP Subpart BB:* Benzene Emissions from Bulk Transfer Operations; Rafael Sanchez of the Office of Compliance at (202) 564–7028 or via E-mail at sanchez.rafael@epa.gov; EPA ICR Number 1154.06; OMB Number 2060–0182; expiration date May 31, 2002.

(2) *NESHAP Subpart HHH:* NESHAP—Oil and Natural Gas Transmission and Storage (40 CFR Part 63, Subpart HHH); Dan Chadwick of the Office of Compliance at (202)-564–7054 or via E-mail at chadwick.dan@epa.gov; EPA ICR Number 1789.03; OMB Number 2060–0418; expiration date July 31, 2002.

(3) *NESHAP Subpart HH:* NESHAP—Oil and Natural Gas Production; Dan Chadwick of the Office of Compliance at (202) 564–7054 or via E-mail at chadwick.dan@epa.gov; EPA ICR Number 1788.03; OMB Number 2060–0417; expiration date July 31, 2002.

(4) *NSPS Subpart J:* NSPS for Petroleum Refineries (Subpart J); Dan Chadwick of the Office of Compliance at (202) 564–7054 or via E-mail at chadwick.dan@epa.gov; EPA ICR Number 1054.08; OMB Number 2060–0022; expiration date August 31, 2002.

(5) *NSPS Subpart GGG:* NSPS for Petroleum Refineries (Subpart GGG); Dan Chadwick of the Office of Compliance at (202) 564–7054 or via E-mail at chadwick.dan@epa.gov; EPA ICR Number 0983.06; OMB Number 2060–0067; expiration date October 31, 2002.

(6) *NESHAP–MACT Subpart PPP:* NESHAP for Polyether Polyol Production; Joanne Berman of the Office of Compliance at (202) 564–7064, or via E-mail to berman.joanne@epa.gov; EPA ICR Number 1811.03; OMB Control Number 2060–0415; expiration date July 31, 2002.

(7) *NSPS Subpart WWW:* NSPS for Municipal Solid Waste Landfills (40 CFR Part 60, Subpart WWW); Tracy Back of the Office of Compliance at (202) 564–7076 or via E-mail at back.tracy@epa.gov; EPA ICR Number 1557.05; OMB Number 2060–0220, expiration date September 30, 2002.

Section C: Summaries of Individual ICRs

(1) *NESHAP Subpart BB:* National Emissions Standards for Hazardous Air Pollutants (NESHAP) for Benzene Emissions from Bulk Transfer Operations; EPA ICR Number 1154.06; OMB Number 2060–0182; expiration May 31, 2002.

Affected Entities: Entities potentially affected by this action are bulk transfer operations that have benzene emissions which are addressed by the standards at 40 CFR Part 61, Subpart BB. These standards apply to the total of all loading racks which transfer a liquid which is at least 70 percent benzene by weight into tank trucks, railcars, or marine vessels. It also addresses benzene production facilities and bulk terminals. Specifically exempt from this regulation are loading racks at which only the following are loaded: benzene-laden waste (addressed under 40 CFR Part 61, Subpart FF), gasoline, crude oil, natural gas liquids, petroleum distillates (e.g., fuel oil, diesel, or kerosene), or benzene-laden liquid from coke by-product recovery plants. In addition, any affected entity that loads only liquid containing less than 70 weight-percent benzene, or whose annual benzene loading is less than 1.3 million liters of 70 weight-percent or more benzene, is exempt from the regulatory requirements except for the recordkeeping and reporting requirements at Section 61.305(i).

Abstract: The Administrator has determined that emissions of benzene from bulk transfer operations cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare. This information is being collected to assure compliance with 40 CFR Part 61, Subpart BB. Owners or operators of the affected facilities must make one-time only notifications to the Administrator. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Semiannual reports of excess emissions are required. These notifications, reports, and records are essential in determining compliance.

Burden Statement: In the previously approved ICR, the estimated number of respondents for this information collection was 54 with 216 responses per year. The annual industry reporting and recordkeeping burden for this collection of information was 7,889 hours. On the average, each respondent reported 4 times per year, and 37 hours were spent preparing each response. There was no annual reporting and recordkeeping cost burden associated with continuous emission monitoring in the previous ICR; therefore, there are no capital, or operation and maintenance costs associated with this ICR.

(2) *NESHAP Subpart HHH:* NESHAP—Oil and Natural Gas Transmission and Storage (40 CFR Part 63, Subpart HHH); EPA ICR Number 1789.03; OMB Number 2060–0418; expiration July 31, 2002.

Affected Entities: Entities potentially affected by this action are owners and operators of facilities in the natural gas transmission and storage industry. Of the total estimated population of 2,200 facilities in this industry, it is estimated that 7 existing facilities will be subject to the provisions of 40 CFR Part 63, Subpart HHH.

Abstract: The Administrator has determined that the emissions from oil and gas transmission and storage cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare. All existing sources must comply with the requirements of 40 CFR Part 63, Subpart HHH within three years of the effective date of the rule (June 17, 1999). All new sources must be in compliance with the natural gas transmission upon startup.

For sources constructed or reconstructed after the effective date, these standards require each source to submit both an initial notification and an application for approval of construction or reconstruction which enables enforcement personnel to identify the number of sources subject to the standards and to identify those sources that are already in compliance.

Respondents also are required to submit one-time reports of: (1) Start of construction for new facilities; (2) anticipated and actual start-up dates for new facilities; and (3) physical or operational changes to existing facilities.

These standards also require affected sources to submit a compliance status report. This report must be signed by a responsible company official who certifies its accuracy and certifies that the source has complied with the relevant standards. Performance test or design analysis results also are required in the compliance status report. The notification of compliance status must be submitted within 180 days after the compliance date for the affected source.

Affected sources are also required by the standards to install continuous monitoring systems (CMS) and to conduct a performance evaluation of the CMS. The results of the performance evaluation must be submitted to the EPA in the notification of compliance status report. Periodic reports documenting excess emissions and parameter monitoring exceedances must be submitted semi-annually when the CMS data are used to demonstrate compliance and the facility experiences excess emissions.

These standards also require owners or operators to develop startup, shutdown, and malfunction (SSM) plans, documenting procedures that will be taken in the case of an SSM. SSM reports also are required to be submitted to demonstrate that the actions taken by an owner or operator during an SSM comply with the SSM plan. When actions taken are consistent with the plan, reports are required semiannually. When actions taken are inconsistent with the plan, immediate reports are required.

Burden Statement: In the previously approved ICR, the estimated number of respondents for this information collection was 7 with 23 responses per year. The annual industry reporting and recordkeeping burden for this collection of information was 213 hours. On the average, each respondent reported 3.2 times per year, and 9 hours were spent preparing each response. There was no annual reporting and recordkeeping cost burden associated with continuous emission monitoring in the previous ICR; therefore, there are no capital, or operation and maintenance costs associated with this ICR.

(3) *NESHAP Subpart HH:* NESHAP—Oil and Natural Gas Production; EPA ICR Number 1788.03 OMB Number 2060–0417; expiration date July 31, 2002.

Affected Entities: Entities potentially affected by this action are owners and operators of facilities in the oil and natural gas production industry subject to 40 CFR Part 63, Subpart HH. Of the total estimated population of 120,000 facilities, it is estimated that 440 existing facilities will be subject to the provisions of these standards. In addition, it is estimated that 44 new facilities will be subject to the provisions of these standards over the next three years.

Abstract: The Administrator has determined that the emissions from oil and natural gas production cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare. All existing sources must be in compliance with the requirements of 40 CFR Part 63, Subpart HH within three years of the effective date (June 17, 1999) of the rule.

These standards require an affected source with an initial startup date before the effective date to submit a one-time initial notification. This initial notification must be submitted within one year after the source becomes subject to these standards. For sources constructed or reconstructed after the effective date of the relevant standards, the source must submit an application for approval of construction or reconstruction. The application is required to contain information on the air pollution control technique that will be used for each hazardous air pollutant emission point.

Respondents are also required to submit one-time reports regarding the: (1) Initiation of construction for new facilities; (2) anticipated and actual start-up dates for new facilities; and (3) physical or operational changes to existing facilities.

These standards also require affected sources to submit a notification of compliance status. This notification must be signed by a responsible company official who certifies its accuracy and certifies that the source has complied with these standards. Performance test or design analysis results also are required to be included in the compliance status report. The notification of compliance status must be submitted within 180 days after the compliance date for the affected source.

In addition, those affected sources required by these standards to install a continuous monitoring system (CMS) may be required by the Administrator to conduct a performance evaluation of the CMS. If required, the results of the performance evaluation must be submitted to the EPA in the notification of compliance status report. Periodic reports documenting excess emissions and parameter monitoring exceedances are also required to be submitted to the Administrator semiannually when the CMS data is used to demonstrate compliance and the facility experiences excess emissions.

Owners and operators must submit semiannual reports of the monitoring results from the leak detection and repair program in accordance with the equipment leak section of 40 CFR Part 63, Subpart HH.

The oil and natural gas production NESHAP require owners or operators to develop startup, shutdown, and malfunction (SSM) plans. SSM reports that document the actions taken by an owner or operator during an SSM event to ensure compliance with the SSM plan must be submitted. When actions taken are consistent with the plan, reports are required semiannually. When actions taken are inconsistent with the plan, immediate reports are required.

Burden Statement: In the previously approved ICR, the estimated number of respondents for this information collection was 484 with 3,328 responses per year. The annual industry reporting and recordkeeping burden for this collection of information was 27,298 hours. On the average, each respondent reported 6.9 times per year, and 56 hours were spent preparing each response.

The annualized cost of capital equipment is $154,000. The operation and maintenance cost was estimated at $190,000 per year. The total annualized cost in the previous ICR was, therefore, $344,000.

(4) *NSPS Subpart J:* NSPS for Petroleum Refineries (Subpart J); EPA ICR Number 1054.08; OMB Number 2060–0022; expiration date August 31, 2002.

Affected Entities: Entities potentially affected by this action are owners or operators of petroleum refineries subject to 40 CFR Part 60, Subpart J.

Abstract: In the Administrator's judgement, particulate matter, carbon monoxide, and sulfur oxide emissions from petroleum refineries cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare.

Owners or operators of the affected facilities must make one-time only notifications. Performance tests are also required to record the source's initial capability to comply with the emission standards and to ascertain the operating conditions under which compliance was achieved. The owner or operator of an affected facility is also required to install a continuous emission monitor (CEM) and record the emission levels of opacity, carbon monoxide, and sulfur dioxide or hydrogen sulfide, and report all periods of excess emissions. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction of an affected facility, or any period during which the CEM is inoperative. Quarterly reports of excess emissions are also required.

Burden Statement: In the previously approved ICR, the estimated number of respondents for this information collection was 130 with 197 responses per year. The annual industry reporting and recordkeeping burden for this collection of information was 19,045 hours. On the average, each respondent reported 1.5 times per year, and 97 hours were spent preparing each response. The annual reporting and recordkeeping cost burden was $123,000 per year which covers the cost of operation and maintenance of the CEM.

(5) *NSPS Subpart GGG:* NSPS for Petroleum Refineries (Subpart GGG); EPA ICR Number 0983.06; OMB Number 2060–0067; expiration date October 31, 2002.

Affected Entities: Entities potentially affected by this action are owners and operators of petroleum refineries subject 40 CFR Part 60, Subpart GGG.

Abstract: In the Administrator's judgement emissions from petroleum refineries cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare. 40 CFR Part 60, Subpart GGG was proposed on January 4, 1983, and promulgated on May 30, 1984. The standards under 40 CFR Part 60, Subpart GG apply to volatile organic compound (VOC) leaks, compressors and other petroleum refinery equipment, such as valves, pumps, and flanges within a subject process unit, that has commenced construction, modification, or reconstruction after the proposed date.

Owners or operators of the affected facilities must make one-time only notifications. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative.

40 CFR Part 60, Subpart GGG references the compliance requirements of 40 CFR Part 60, Subpart VV. Owners or operators are required to periodically (time period varies depending on equipment type and leak history) record information identifying leaking equipment, repair methods used to stop the leaks, and dates of repair. Semiannual reports are required to measure compliance with the standards of 40 CFR Part 60, Subpart VV as referenced by 40 CFR Part 60, Subpart GGG.

Burden Statement: In the previously approved ICR, the estimated number of respondents for this information collection was 48 with 108 responses per year. The annual industry reporting and recordkeeping burden for this collection of information was 6,137 hours. On the average, each respondent reported 2.3 times per year, and 57 hours were spent preparing each response. There was no annual reporting and recordkeeping cost burden associated with this information collection.

(6) *NESHAP–MACT Subpart PPP:* NESHAP for Polyether Polyol Production; EPA ICR Number 1811.03; OMB Control Number 2060–0415; expiration date July 31, 2002.

Affected Entities: Entities potentially affected by this action are those owners and operators of facilities which engage in the manufacturing of polyether polyol (which also include polyether mono-ols) that emit hazardous air pollutants (HAP) which are subject to 40 CFR Part 63, Subpart PPP.

Abstract: In the Administrator's judgement, the pollutants emitted from polyether polyols production cause or contribute significantly to air pollution that may reasonably be anticipated to endanger public health.

Owners or operators of polyether polyols production facilities, to which these standards apply, may choose one of the compliance options described in the standards, or install and monitor a specific control system that reduces HAP emissions to the compliance level. The respondents must comply with the general provisions at 40 CFR Part 63, Subpart A. These provisions include submitting the initial notification, providing a precompliance report, notification of compliance status, and semiannual reports. All respondents must submit an annual report of compliance for process vents, storage tanks, wastewater, and equipment leaks to the Agency that contains all the information requested at Section 63.1439 of these standards. Respondents must also submit semiannual reports containing the information at Section 63.1439 of these standards.

If the owner or operator identifies any deviation resulting from a known cause for which no federally-approved or promulgated exemption exists, the required compliance report must include all records that pertain to the periods during which such deviation occurred, as well as the following: The magnitude of each deviation; the reason for each deviation; a description of the corrective action taken for each deviation, including action taken to minimize each deviation and action taken to prevent recurrence; a copy of all quality assurance; and documentation addressing any changes in monitoring protocol.

Burden Statement: In the previously approved ICR, the estimated number of respondents for this information collection was 79 with 158 responses per year. The annual industry reporting and recordkeeping burden for this collection of information was 36,163 hours. On the average, each respondent reported 2 times per year, and 229 hours were spent preparing each response. The annual reporting and recordkeeping cost burden was $253,000 per year which reflected the capital/startup cost for monitoring devices.

(7) *NSPS Subpart WWW:* NSPS for Municipal Solid Waste Landfills (40 CFR Part 60, Subpart WWW); EPA ICR Number 1557.05; OMB Number 2060–0220; expiration date September 30, 2002.

Affected Entities: Entities potentially affected by this action are municipal solid waste landfills for which construction, modification or reconstruction commended on or after May 30, 1991 that are subject to 40 CFR Part 60, Subpart WWW.

Abstract: The Agency has determined that methane, carbon dioxide, and nonmethane organic gas compound emissions from municipal solid waste landfills cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare. These standards require the installation of properly designed emission control equipment, and the proper operation and maintenance of this equipment. These standards rely on the capture and reduction of methane, carbon dioxide, and nonmethane organic gas compound emissions by combustion devices (boilers, internal combustion engines, or flares).

Owners and operators of the affected facilities described must make initial reports when a source becomes subject, conduct and report on performance tests, provide annual or periodic reports

with regard to emission rates, report on design plan changes, report on equipment removal and closure, report on monitoring malfunctions and exceedances, and provide a plot map showing the location of all subject wells.

Burden Statement: In the previously approved ICR, the estimated number of respondents for this information collection was 172 with 299 responses per year. The annual industry reporting and recordkeeping burden for this collection of information was 3,379 hours. On the average, each respondent reported 1.7 times per year, and 11 hours were spent preparing each response.

The annualized cost of capital equipment is $79,000. The operation and maintenance costs were estimated at $2,000 per year. The total annualized cost requested is, therefore, $81,000.

Dated: January 23, 2002.

Michael M. Stahl,

Director, Office of Compliance.

[FR Doc. 02–2235 Filed 1–29–02; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34252; FRL–6820–2]

Oxyfluorfen; Availability of Risk Assessments (Interim Process)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of risk assessments that were developed as part of EPA's process for making pesticide Reregistration Eligibility Decisions (REDs) and tolerance reassessments consistent with the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA). These risk assessments are the human health and environmental fate and effects risk assessments and related documents for oxyfluorfen. This notice also starts a 60–day public comment period for the risk assessments. By allowing access and opportunity for comment on the risk assessments, EPA is seeking to strengthen stakeholder involvement and help ensure decisions made under FQPA are transparent and based on the best available information. The tolerance reassessment process will ensure that the United States continues to have the safest and most abundant food supply.

DATES: Comments, identified by the docket control number OPP–34252 for oxyfluorfen, must be received on or before January 30, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit II. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–34252 for oxyfluorfen in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Deanna Scher, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–7043; e-mail address: Scher.Deanna@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, nevertheless, a wide range of stakeholders will be interested in obtaining the risk assessments for oxyfluorfen, including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the use of pesticides on food. Since other entities also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. On the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. In addition, copies of the pesticide risk assessments released to the public may also be accessed at http://www.epa.gov/pesticides/reregistration/status.htm.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–34252. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. How Can I Respond to this Action?

A. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number for the specific chemical of interest in the subject line on the first page of your response.

1. *By mail*. Submit comments to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2.*In person or by courier*. Deliver comments to: Public Information and Records Integrity Branch, Information Resources and Services Division, Office of Pesticide Programs, Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically*. Submit electronic comments by e-mail to: opp-docket@epa.gov or you can submit a computer disk as described in this unit. Do not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file, avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on standard computer disks in WordPerfect 6.1/8.0/9.0 or ASCII file format. All comments in electronic form must be identified by

the docket control number of the chemical of specific interest. Electronic comments may also be filed online at many Federal Depository Libraries.

B. How Should I Handle CBI Information that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

III. What Action is the Agency Taking?

EPA is making available to the public the risk assessments that have been developed as part of the Agency's interim public participation process for tolerance reassessment and reregistration. During the next 60 days, EPA will accept comments on the human health and environmental fate and effects risk assessments and other related documents for oxyfluorfen, available in the individual pesticide docket. Like other REDs for pesticides developed under the interim process, the oxyfluorfen RED will be made available for public comment.

EPA and United States Department of Agriculture (USDA) have been using a pilot public participation process for the assessment of organophosphate pesticides since August 1998. In considering how to accomplish the movement from the current pilot being used for the organophosphate pesticides to the public participation process that will be used in the future for non-organophosphates, such as oxyfluorfen, EPA and USDA have adopted an interim public participation process. EPA is using this interim process in reviewing the non-organophosphate pesticides scheduled to complete tolerance reassessment and reregistration in 2001 and early 2002. The interim public participation process ensures public access to the Agency's risk assessments while also allowing EPA to meet its reregistration commitments. It takes into account that the risk assessment development work on these pesticides is substantially complete. The interim public participation process involves: A registrant error correction period; a period for the Agency to respond to the registrant's error correction comments; the release of the refined risk assessments and risk characterizations to the public via the docket and EPA's internet website; a significant effort on stakeholder consultations, such as meetings and conference calls; and the issuance of the risk management decision document (i.e., RED) after the consideration of issues and discussions with stakeholders. USDA plans to hold meetings and conference calls with the public (i.e., interested stakeholders such as growers, USDA Cooperative Extension Offices, commodity groups, and other Federal government agencies) to discuss any identified risks and solicit input on risk management strategies. EPA will participate in USDA's meetings and conference calls with the public. This feedback will be used to complete the risk management decisions and the RED. EPA plans to conduct a close-out conference call with interested stakeholders to describe the regulatory decisions presented in the RED. REDs for pesticides developed under the interim process will be made available for public comment.

Included in the public version of the official record are the Agency's risk assessments and related documents for oxyfluorfen. As additional comments, reviews, and risk assessment modifications become available, these will also be docketed. The oxyfluorfen risk assessments reflect only the work and analysis conducted as of the time they were produced and it is appropriate that, as new information becomes available and/or additional analyses are performed, the conclusions they contain may change.

List of Subjects

Environmental protection, Chemicals, Pesticides and pests.

Dated: January 14, 2002.

Lois A. Rossi,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 02–2237 Filed 1–29– 02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34164C; FRL–6821–1]

Organophosphate Pesticides; Availability of Interim Risk Management Decision Documents

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of the interim risk management decision documents for one organophosphate pesticide, acephate. These decision documents have been developed as part of the public participation process that EPA and the U.S. Department of Agriculture (USDA) are now using for involving the public in the reassessment of pesticide tolerances under the Food Quality Protection Act (FQPA), and the reregistration of individual organophosphate pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

DATES: The interim risk management decision document is available under docket control number OPP–34164C.

FOR FURTHER INFORMATION CONTACT: Kimberly Lowe, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8059; e-mail address: lowe.kimberly@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, nevertheless, a wide range of stakeholders will be interested in obtaining the interim risk management decision documents for acephate, including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the use of pesticides on food. Since other entities also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, and

certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. In addition, copies of the pesticide interim risk management decision documents released to the public may also be accessed at http://www.epa.gov/pesticides/reregistration/status.htm.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–34164C. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. What Action is the Agency Taking?

Acephate residues in food and drinking water do not pose risk concerns, and by reducing exposure in homes and through residential lawns, acephate fits into its own ''risk cup.'' EPA made this determination after the registrants agreed to drop indoor residential uses and certain turf uses. With other mitigation measures, acephate's worker and ecological risks also will be below levels of concern for reregistration.

The interim risk management decision documents for acephate were made through the organophosphate pesticide pilot public participation process, which increases transparency and maximizes stakeholder involvement in EPA's development of risk assessments and risk management decisions. The pilot public participation process was developed as part of the EPA-USDA Tolerance Reassessment Advisory Committee (TRAC), which was established in April 1998, as a subcommittee under the auspices of EPA's National Advisory Council for Environmental Policy and Technology (NACEPT). A goal of the pilot public participation process is to find a more effective way for the public to participate at critical junctures in the Agency's development of organophosphate pesticide risk assessments and risk management decisions. EPA and USDA began implementing this pilot process in August 1998, to increase transparency and opportunities for stakeholder consultation.

EPA worked extensively with affected parties to reach the decisions presented in the interim risk management decision documents, which conclude the pilot public participation process for acephate. As part of the pilot public participation process, numerous opportunities for public comment were offered as these interim risk management decision documents were being developed. The acephate interim risk management decision documents therefore are issued in final, without a formal public comment period. The docket remains open, however, and any comments submitted in the future will be placed in the public docket.

The risk assessments for acephate were released to the public through notices published in the **Federal Register** of January 20, 2000 (65 FR 3231) (FRL–6489–2), and February 22, 2000 (65 FR 8702) (FRL–6492–2).

EPA's next step under FQPA is to complete a cumulative risk assessment and risk management decision for the organophosphate pesticides, which share a common mechanism of toxicity. The interim risk management decision documents on acephate cannot be considered final until this cumulative assessment is complete.

When the cumulative risk assessment for the organophosphate pesticides has been completed, EPA will issue its final tolerance reassessment decision(s) for acephate and further risk mitigation measures may be needed.

List of Subjects

Environmental protection, Chemicals, Pesticides and pests.

Dated: January 18, 2002.

Lois A. Rossi,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 02–2238 Filed 1–29–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–181083; FRL–6819–3]

Norflurazon; Receipt of Application for Emergency Exemption,Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a specific exemption request from the Alabama Department of Agriculture and Industries to use the pesticide norflurazon (CAS No. 27314–13–2) to treat up to 60,000 acres of bermuda grass meadows to control annual grassy weeds. The Applicant proposes a use which has been requested in 3 or more previous years, and the petition for a tolerance was recently withdrawn by the registrant for financial reasons. EPA is soliciting public comment before making the decision whether or not to grant the exemption.

DATES: Comments, identified by docket control number OPP–181083, must be received on or before February 14, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–181083 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Libby Pemberton, Registration Division (7505C, Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–9364; fax number: (703) 308–5433; e-mail address: pemberton.libby@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you petition EPA for emergency exemption under section 18 of FIFRA. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS Codes	Examples of potentially affected entities
State government	9241	State agencies that petition EPA for section 18 pesticide exemption

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. Other types of entities not listed in the table in this unit could also be regulated. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action applies to certain entities. To determine whether you or your business is affected by this action, you should carefully examine the applicability provisions in this unit. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–181083. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–181083 in the subject line on the first page of your response.

1.*By mail*. Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3.*Electronically*. You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–181083. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the proposed rule or collection activity.

7. Make sure to submit your comments by the deadline in this document.

8. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Background

A. What Action is the Agency Taking?

Under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), at the discretion of the Administrator, a Federal or State agency may be exempted from any provision of FIFRA if the Administrator determines that emergency conditions exist which require the exemption. The Alabama Department of Agriculture and Industries has requested the Administrator to issue a specific exemption for the use of norflurazon on bermuda grass meadows to control annual grassy weeds. Information in accordance with 40 CFR part 166 was submitted as part of this request.

As part of this request, the Applicant asserts that bermuda grass requires at least 2 years to completely cover a planted area and successfully compete with annual grassy weeds. Successful establishment during the first 2 years is critically important to profitable

production from a bermuda grass hay meadow. Annual grassy weed encroachment and resulting variable bermuda grass stands will reduce the quantity of hay produced and the overall quality. A hay field does not reach maximum hay production for 3 or 4 years after establishment depending on the degree of success in establishment. For the next 6 to 7 years, growers should receive maximum economic yield and return on their annual investments. The market will not accept bermuda grass hay contaminated with weeds or annual grasses. Bermuda grass stands often begin to decline after about 10 years due to diseases, insect problems, fertility imbalances, or environmental stresses. Establishment of a new stand of bermuda grass is the most cost effective way of maintaining maximum quality and quantity of hay. Atrazine and simazine, which traditionally provided control of these weeds, were voluntarily canceled in 1990. There are no currently registered effective herbicides for this use. Over a 5-year period, only the use of norflurazon provides a positive net return to the hay producer.

The Applicant proposes to make no more than one application of norflurazon manufactured by Syngenta Crop Protection, Inc. as Zorial Rapid 80, EPA Reg. No. 100–848, at a rate of 0.5 - 1.2 lb active ingredient/Acre (.6 - 1.5 lb product/Acre) by ground to 60,000 acres of bermuda grass meadows between February 1 and July 31, 2002.

This notice does not constitute a decision by EPA on the application itself. The regulations governing section 18 of FIFRA require publication of a notice of receipt of an application for a specific exemption proposing a use which has been requested in 3 or more previous years, and a petition for a tolerance has not yet been submitted to the Agency. The notice provides an opportunity for public comment on the application.

The Agency, will review and consider all comments received during the comment period in determining whether to issue the specific exemption requested by the Alabama Department of Agriculture and Industries.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: January 10, 2002.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 02–1882 Filed 1–29–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7135–5]

Methods for Collection, Storage, and Manipulation of Sediments for Chemical and Toxicological Analyses: Technical Manual

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is publishing a technical manual containing recommendations for collecting, handling, and manipulating sediment samples for physiochemical characterization and biological testing. This technical manual provides a compilation of methods that are most likely to yield accurate, representative sediment quality data based on the experience of many monitoring programs and researchers.

Availability of Document: Copies of the complete document, titled Methods for Collection, Storage, and Manipulation of Sediments for Chemical and Toxicological Analyses: Technical Manual (EPA–823–B–01–002) can be obtained from the National Service Center for Environmental Publications, P.O. Box 42419, Cincinnati, OH 45242, by phone at 1–800–490–9198 or on their Web site at *www.epa.gov/ncepihom/orderpub.html.* A pdf version of this document is available to be viewed or downloaded from the Office of Science and Technology's Web site on the Internet at *www.epa.gov/waterscience/cs.*

FOR FURTHER INFORMATION CONTACT: Richard Healy, EPA, Standards and Health Protection Division (4305), Office of Science and Technology, Ariel Rios Building, 1200 Pennsylvania Avenue, NW, Washington, DC 20460; or call (202) 260–7812; fax (202) 260–9830; or e-mail *healy.richard@epa.gov.*

SUPPLEMENTARY INFORMATION:

Background Information

Sediment contamination is a widespread environmental problem that can pose a threat to a variety of aquatic ecosystems. Sediment functions as a reservoir for common contaminants such as pesticides, herbicides, polychlorinated biphenyls (PCBs), polycyclic aromatic hydrocarbons (PAHs), and metals such as lead, mercury, and arsenic. Contaminated sediments represent a hazard to aquatic life through direct toxicity as well as to aquatic life, wildlife and human health through bioaccumulation.

Assessments of sediment quality commonly include analyses of anthropogenic contaminants, benthic community structure, physicochemical characteristics and direct measures of whole sediment and pore water toxicity. Accurate assessment of environmental hazard posed by sediment contamination depends in large part on the accuracy and representativeness of these analyses. The methods described in this Manual provide sediment collection, storage, and manipulation methods that are most likely to yield accurate, representative sediment quality data (*e.g.,* sediment chemistry and toxicity) based on the experience of many monitoring programs and researchers. Information contained in this manual reflects the knowledge and experience of organizations that have developed internationally-recognized procedures and protocols. These organizations include:

- American Society for Testing and Materials,
- Puget Sound Estuary Program,
- Washington State Department of Ecology,
- US Environmental Protection Agency,
- US Army Corps of Engineers,
- National Oceanographic and Atmospheric Administration, and
- Environment Canada.

This manual provides technical support to those who design or perform sediment quality studies under a variety of regulatory and non-regulatory programs. The methods contained are widely relevant for anyone wishing to collect consistent, high quality sediment data. This manual is not guidance on how to implement any specific regulatory requirement but rather a compilation of technical methods on how to best collect environmental samples that most accurately reflect environmental conditions. This technical manual has no immediate or direct regulatory consequence. It does not impose legally binding requirements and may not apply to a particular situation depending on the circumstances. The EPA may change this technical manual in the future. EPA's Office of Science and Technology has reviewed and approved this technical manual for publication. Mention of trade names or commercial products constitutes neither endorsement by the EPA nor recommendation for use.

Dated: November 27, 2001.

Geoffrey H. Grubbs,

Director, Office of Science and Technology.

[FR Doc. 02–2236 Filed 1–29–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7135–6]

Proposed Administrative Settlement Under the Comprehensive Environmental Response, Compensation, and Liability Act

AGENCY: Environmental Protection Agency.

ACTION: Request for public comment.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to enter into an Agreement for Recovery of Past Response Costs pursuant to Section 122(h)(1) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. 9622(h)(1). This proposed settlement is intended to resolve the liability under CERCLA of St. Jude Polymer Corporation for past response costs incurred by the United States Environmental Protection Agency and the United States Department of Justice in connection with the Metropolitan Mirror and Glass, Inc. Superfund Site, located in Frackville, Schuylkill County, Pennsylvania.

DATES: Comments must be provided on or before March 1, 2002.

ADDRESS: Comments should be addressed to Suzanne Canning, Docket Clerk, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103, and should refer to the Metropolitan Mirror and Glass Site, Frackville, Schuylkill County, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Joan A. Johnson (3RC41),215/814–2619, U.S. Environmental Protection Agency, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

SUPPLEMENTARY INFORMATION: Notice of the past response costs settlement: In accordance with Section 122(h)(1) of CERCLA, 42 U.S.C. 122(h)(1), notice is hereby given of a proposed administrative settlement concerning the Metropolitan Mirror and Glass, Inc. Site in Frackville, Schuylkill County, Pennsylvania. The administrative settlement is subject to review by the public pursuant to this Notice. This agreement is also subject to the approval of the Attorney General, United States Department of Justice or his designee.

Pursuant to the proposed administrative settlement, St. Jude Polymer Corporation (St. Jude), the settling respondent, has agreed to pay $5,000 to the Hazardous Substances Trust Fund subject to the contingency that EPA may elect not to complete the settlement if comments received from the public during this comment period disclose facts or considerations which indicate the proposed settlement is inappropriate, improper, or inadequate. This amount to be paid by St. Jude will be applied towards past response costs incurred by EPA and the United States Department of Justice in connection with the Site.

EPA is entering into this agreement under the authority of Section 122(h) of CERCLA, 42 U.S.C. 9622(h). As part of this cost recovery settlement, EPA will grant St. Jude a covenant not to sue or take administrative action against St. Jude for reimbursement of past response costs pursuant to Section 107 of CERCLA, 42 U.S.C. 9607, with regard to the Site.

The Environmental Protection Agency will receive written comments relating to this settlement for thirty (30) days from the date of publication of this Notice. A copy of the proposed Agreement for Recovery of Past Response Costs can be obtained from Joan A. Johnson, U.S. Environmental Protection Agency, Region III, Office of Regional Counsel, 1650 Arch Street, Philadelphia, Pennsylvania, 19103 or by contacting Joan A. Johnson at (215) 814–2619.

Dated: January 17, 2002.

Thomas C. Voltaggio,

Acting Regional Administrator, U.S. Environmental Protection Agency, Region III.

[FR Doc. 02–2233 Filed 1–29–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7135–7]

Proposed Settlement Under Section 122(h) of the Comprehensive Environmental Response, Compensation and Liability Act, as Amended, 42 U.S.C. 9622(h), Old Glenwood School Asbestos Site, Glenwood, Washington

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed settlement and request for public comment.

SUMMARY: In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation and Liability Act, as amended by the Superfund Amendment and Reauthorization Act (''CERCLA''), notice is hereby given of a proposed settlement to resolve a claim against Old Glenwood School Asbestos Site. The proposed settlement concerns the Federal Government's past response costs at the Old Glenwood School Asbestos Site, Glenwood, Washington. The settlement requires the settling parties, Jimmie Howard and Jean Howard, to pay $6,000.00 to the Hazardous Substance Superfund. For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the settlement. The Agency's response to any comments received will be available for public inspection at the U.S. Environmental Protection Agency, Region 10, office at 1200 Sixth Avenue, Seattle, Washington 98101. A copy of the proposed settlement may be obtained from Carol Kennedy, Regional Hearing Clerk, EPA, Region 10, 1200 Sixth Avenue (ORC–158), Seattle, Washington 98101, telephone number (206) 553–0242. Comments should reference the ''Old Glenwood School Asbestos Site'' and EPA Docket No. CERCLA–10–2002–0021 and should be addressed to Ms. Kennedy at the above address.

FOR FURTHER INFORMATION CONTACT: Richard McAllister, Assistant Regional Counsel, EPA Region 10, Office of Regional Counsel, 1200 Sixth Avenue, Seattle, Washington 98101, telephone number (206) 553–8203.

Dated: January 22, 2002.

L. John Iani,

Regional Administrator, Region 10.

[FR Doc. 02–2234 Filed 1–29–02; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2526]

Petitions for Reconsideration and Clarification of Action in Rulemaking Proceeding

January 15, 2002.

Petitions for Reconsideration and Clarification have been filed in the Commission's rulemaking proceeding listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of this document is available for viewing and copying in Room CY–A257, 445 12th Street, SW., Washington, DC or may be purchased from the Commission's copy contractor, Qualex International (202) 863–2893. Oppositions to these petitions must be filed by February 14, 2002. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions have expired.

Subject: Federal-State Joint Board on Universal Service (CC Docket No. 96–45);

In the Matter of Access Charge Reform for Incumbent Local Exchange Carriers Subject to Rate-of-Return Regulation (CC Docket No. 98–77);

In the Matter of Prescribing the Authorized Unitary Rate of Return for Interstate Services of Local Exchange Carriers (CC Docket No. 98–166);

In the Matter of Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers (CC Docket No. 00–256).

Number of Petitions Filed: 10.

Magalie Roman Salas,

Secretary.

[FR Doc. 02–2221 Filed 1–29–02; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than February 14, 2002.

A. Federal Reserve Bank of Cleveland (Stephen J. Ong, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101–2566:

1. John William Straker, Bonita Springs, Florida, and John William Straker, Jr., Granville, Ohio; to retain voting shares of BancFirst Ohio Corp., Zanesville, Ohio, and thereby indirectly retain voting shares of First National Bank, Zanesville, Ohio.

B. Federal Reserve Bank of Kansas City (Susan Zubradt, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. Edward Palmer Milbank, Chillicothe, Missouri, as trustee of the Edward P. Milbank Trust and the John P. Milbank Trust, both of Chillicothe, Missouri; to retain voting shares of IFB Holdings, Inc., Chillicothe, Missouri, and thereby indirectly retain voting shares of Investors Federal Bank, NA, Chillicothe, Missouri.

Board of Governors of the Federal Reserve System, January 24, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–2202 Filed 1–29–02; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 25, 2002.

A. Federal Reserve Bank of Minneapolis (Julie Stackhouse, Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. Frandsen Financial Corporation, Arden Hills, Minnesota; to merge with Community National Corporation, Grand Forks, North Dakota, and thereby indirectly acquire Community National Bank of Grand Forks, Grand Forks, North Dakota.

In connection with this application, Applicant also has applied to acquire voting shares of Document Processing & Imaging Corporation, Grand Forks, North Dakota, and thereby engage in providing check imaging services for financial institutions pursuant to section 225.28(b)(14) of Regulation Y.

Board of Governors of the Federal Reserve System, January 24, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–2201 Filed 1–29–02; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 26, 2002.

A. Federal Reserve Bank of San Francisco (Maria Villanueva, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105–1579:

1. Landmark Bancorp, Anaheim, California; to become a bank holding

company by acquiring up to 100 percent of the voting shares of Greater Pacific Bancshares, Whittier, California, and thereby indirectly acquire Bank of Whittier, N.A., Whittier, California.

Board of Governors of the Federal Reserve System, January 25, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–2266 Filed 1–29–02; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 67-2442) published on page 893 of the issue for Tuesday, January 8, 2002.

Under the Federal Reserve Bank of Dallas heading, the entry for Pubco Bancshares, Inc., Slaton, Texas, is revised to read as follows:

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272)

1. Lubco Bancshares, Inc., Slaton, Texas; to acquire 100 percent of the voting shares of Shamrock Bancshares, Inc., Shamrock, Texas, and thereby indirectly acquire voting shares of Shamrock Delaware Financial, Inc., Dover, Delaware, and First National Bank, Shamrock, Texas.

Comments on this application must be received by February 1, 2002.

Board of Governors of the Federal Reserve System, January 25, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–2267 Filed 1–29–00; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: April 2002 Current Population Survey Supplement on Child Support

OMB No.: 0992–0003

Description: Collection of these data will assist legislators and policymakers in determining how effective their policymaking efforts have been over time in apply the various child support legislation to the overall child support enforcement picture. This information will help policymakers determine to what extent individuals on welfare would be removed from the welfare rolls as a result of more stringent child support enforcement efforts.

Respondents: Individuals and households

Annual Burden Estimates:

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Child Support Survey	47,000	1	.0246	1136
Estimated Total Annual Burden Hours				1136

Additional Information: Copies of the proposed collection may be obtained by writing to The Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer.

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, NW., Washington, DC 20503, Attn: Desk Officer for ACF.

Dated: January 22, 2002.

Bob Sargis,

Reports Clearance Officer.

[FR Doc. 02–2222 Filed 1–29–02; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. OCS–2002–04]

Request for Applications Under the Office of Community Services' Fiscal Year 2002 National Youth Sports Program (NYSP Program)

AGENCY: Office of Community Services (OCS), Administration for Children and Families, Department of Health and Human Services.

ACTION: Announcement of availability of funds and request for competitive applications under the Office of Community Services' National Youth Sports Program.

SUMMARY: The Administration for Children and Families (ACF), Office of Community Services (OCS) announces that competing applications will be accepted for new grants pursuant to the Secretary's discretionary authority under Section 682 of the Community Services Block Grant Act, as amended, 42 U.S.C 9923.

This announcement is inviting applications for project periods up to 5 years. Awards, on a competitive basis, will be for a one-year budget period, although project periods may be for 5 years. Applications for continuation grants funded under these awards beyond the one-year budget period but within the 5 year project period will be entertained in subsequent years on a noncompetitive basis, subject to availability of funds, satisfactory progress of the grantee and a determination that continued funding would be in the best interest of the Government.

CLOSING DATE: The closing date and time for receipt of applications is 4:30 p.m., (Eastern Time Zone), on April 1, 2002. Mailed or hand carried applications received after 4:30 p.m. on the closing date will be classified as late.

FOR FURTHER INFORMATION CONTACT: Veronica Terrell (202) 401–5295, *vterrell@acf.dhhs.gov* or Richard Saul, rsaul@acf.dhhs.gov, Department of Health and Human Services, Administration for Children and Families, Office of Community Services, 5th Floor West, 370 L'Enfant Promenade, SW., Washington, DC 20447. In addition, this Announcement is accessible on the OCS WEBSITE for reading and downloading at: *http://www.acf.dhhs.gov/programs/ocs—*

Double click on Funding Opportunities. The Catalog of Federal Domestic Assistance (CFDA) number for this program is 93.570. The title is National Youth Sports Program (NYSP Program).

Paperwork Reduction Act of 1995

All information collections within this program announcement are approved under the following currently valid OMB control number 0970–0139 which expires 12/31/2003.

Public reporting burden for this collection of information is estimated to average 10 hours per response, including the time for reviewing instructions, gathering and maintaining the data needed and reviewing the collection information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

SUPPLEMENTARY INFORMATION: This program announcement consists of seven parts plus Attachments:

Part I: Introduction

Legislative authority, definition of terms, and purpose.

Part II: Background Information

Eligible applicants, program priority area, project and budget period, availability of funds and grant amounts, matching funds requirements, program participants and beneficiaries.

Part III: The Project Description, Program Proposal Elements and Review Criteria

Purpose, project summary/abstract, objectives and need for assistance, results or benefits expected, organizational profiles, budget justification, administrative costs and indirect costs, non-federal resources, and evaluation/review criteria.

Part IV: Applicaiton Procedures

Availability of forms, application submission, application consideration, and application screening.

Part V: Instructions for Completing Applications Forms: SF 424, SF 424A, and SF 424B

Part VI: Contents of Application and Receipt Process

Content and order of application and acknowledgment of receipt.

Part VII: Post Award Information and Reporting Requirements

Notification of grant award, reporting requirements, audit requirements, prohibitions and requirements with regard to lobbying.

Part I. Introduction

A. Legislative Authority

Section 682 of the Community Services Block Grant Act, as amended, 42 U.S.C. 9923 authorizes the Secretary of Health and Human Services to make a grant to an eligible service provider to administer national or regional programs designed to provide instructional activities for low-income youth.

B. Definitions of Terms

For purposes of this Program Announcement the following definitions apply:

—Low-income youth: a youth between the ages of 10 through 16 whose family income does not exceed the DHHS Poverty Income Guidelines (see Attachment A).
—Budget period: The interval of time into which a grant period of assistance is divided for budgetary and funding purposes.
—Project period: The total time for which a project is approved for support, including any approved extensions.
—Secretary: Means the Secretary of Health and Human Services, acting through the Director of the Office of Community Services.

C. Program Purpose

The Department of Health and Human Services is committed to improving the health and physical fitness of young people, particularly those that are members of low-income families and residents of economically disadvantaged areas of the United States.

Part II—Background Information

A. Eligible Applicants

A service provider that is a national private, non-profit organization, a coalition of such organizations, or a private, non-profit organization applying jointly with a business concern and faith-based organizations shall be eligible to apply for a grant under this section if:

1. the applicant has demonstrated experience in operating a program providing instruction to low-income youth;

2. the applicant agrees to contribute an amount (in cash or in-kind, fairly evaluated) of not less than 25 per cent of the amount requested, for the program funded through the grant;

3. the applicant agrees to use no funds from a grant authorized under this section for administrative expenses; and

4. the applicant agrees to comply with the regulations or program guidelines promulgated by the Secretary for use of funds made available through the grant.

B. Program Priority Area

There is one Program Priority Area under this announcement.

C. Project and Budget Period (See Definition of Terms)

The project period will be 60 months (5 years), with budget periods not to exceed 12 months. A significant amount of the program activities must be undertaken in the period covering June, July and August of each fiscal year.

D. Availability of Funds and Grants Amounts

In Fiscal Year 2002, OCS expects approximately $17,000,000 to be available for funding commitments to approximately one new project under this program. For Fiscal Years 2003–2006, OCS anticipates, subject to the availability of funds, that one non-competing continuation grant will be made under this program.

E. Matching Funds Requirements

The grant requires a match of either cash or third party in-kind, fairly evaluated and not less than 25% of the Federal funds requested.

F. Program Participants/Beneficiaries

Projects proposed for funding under this announcement must result in direct benefits targeted toward youth between the ages of 10–16 from low-income families.

Attachment A of the appendices to this announcement is an excerpt from the HHS Poverty Income Guidelines currently in effect. Annual revisions of these Guidelines are normally published in the **Federal Register** in February or early March of each year and are applicable to projects being implemented during the year subsequent to publication. Grantees will be required to apply the most recent Guidelines throughout the project period. No other government agency or privately defined poverty guidelines are applicable to the determination of low-income eligibility for this OCS funded program.

G. Multiple Submittals and Multiple Grants

An applicant organization should not submit more than one application under this Program Announcement.

H. Maintenance of Effort

The activities funded under this program announcement must be in addition to, and not in substitution for, activities previously carried on without

Federal assistance. A Certificate of Maintenance of Effort must be included with the application (See Attachment J).

Part III. The Project Description, Program Proposal Elements and Review Criteria

A. Purpose

The project description provides the major means by which an application is evaluated and ranked to compete with other applications for available assistance. The project description should be concise and complete and should address the activity for which Federal funds are being requested. Supporting documents should be included where they can present information clearly and succinctly. Applicants should provide information on their organizational structure, staff, related experience, and other information considered to be relevant. Awarding offices use this and other information to determine whether the applicant has the capability and resources necessary to carry out the proposed project. It is important, therefore, that this information be included in the application. However, in the narrative the applicant must distinguish between resources directly related to the proposed project and those resources that will not be used in support of the specific project for which funds are requested.

B. Project Summary/Abstract

Provide a summary of the project description (a page or less) with reference to the funding request.

C. Objectives and Need for Assistance

Clearly identify the physical, economic, social, financial, instructional, and/or other problem(s) requiring solution. The need for assistance must be demonstrated and the principal and subordinate objectives of the proposal must be clearly stated; supporting documentation, such as letters of support and testimonials from concerned interests other than the applicant, may be included. Any relevant data based on planning studies should be included or referred to in the endnotes/footnotes. Incorporate demographic data and participant/beneficiary information, as needed. In developing the project description, the applicant may volunteer or be requested to provide information on the total range of projects currently being conducted and supported (or to be initiated), some of which may be outside the scope of the program announcement.

D. Results or Benefits Expected

Identify the results and benefits to be derived.

E. Approach

Outline a plan of action which describes the scope and detail of how the proposed work will be accomplished. Account for all functions or activities identified in the application. Cite factors which might accelerate or decelerate the work and state your reason for taking the proposed approach rather than others. Describe any unusual features of the project such as design or technological innovations, reductions in cost of time, or extraordinary social and community involvement.

Provide quantitative monthly or quarterly projections of the accomplishments to be achieved for each function or activity in such terms as the number of people to be served. When accomplishments cannot be quantified by activity or function, list them in chronological order to show the schedule or accomplishments and their target dates.

If any data is to be collected, maintained, and/or disseminated, clearance may be required from the U.S. Office of Management and Budget (OMB). This clearance pertains to any ''collection of information that is conducted or sponsored by ACF.''

List organizations, cooperating entities, consultants, or other key individuals who will work on the project along with a short description of the nature of their effort or contribution.

F. Organizational Profiles

Provide information on the applicant organization(s) and cooperating partners such as organizational charts, financial statements, audit reports or statements from CPAs/Licensed Public Accountants, Employer Identification Numbers, names of bond carriers, contact persons and telephone numbers, child care licenses and other documentation of professional accreditation, information on compliance with Federal/State/local government standards, documentation of experience in the program area, and other pertinent information. Any non-profit organization submitting an application must submit proof of its non-profit status in its application at the time of submission. The non-profit agency can accomplish this by providing a copy of the applicant's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in Section 501(c)(3) of the IRS code, *or,* by providing a copy of the currently valid IRS tax exemption certificate, *or,* by providing a copy of the articles of incorporation bearing the seal of the State in which the corporation or association is domiciled.

G. Budget and Budget Justification

Provide a line item detail and detailed calculations for each budget object class identified on the Budget Information form. Detailed calculations must include estimation methods, quantities, unit costs, and other similar quantitative details sufficient for the calculation to be duplicated. The detailed budget must also include a breakout by the funding sources identified in Block 15 of the SF–424.

Provide a narrative budget justification that describes how categorical costs are derived. Discuss the necessity, reasonableness, and allocability of the proposed costs.

The following guidelines are for preparing the budget and budget justification. Both Federal and non-Federal resources must be detailed and justified in the budget and narrative justification. For purposes of preparing the budget and budget justification, ''Federal resources'' refers only to the ACF grant for which you are applying. Non-Federal resources are all other Federal and non-Federal resources. It is suggested that budget amounts and computations be presented in a columnar format: first column, object class categories; second column, Federal budget; next column(s), non-Federal budget(s), and last column, total budget. The budget justification should be a narrative.

Personnel

Description: Costs of employee salaries and wages.

Justification: Identify the project director or principal investigator, if known. For each staff person, provide the title, time commitment to the project (in months), time commitment to the project (as a percentage or full-time equivalent), annual salary, grant salary, wage rates, etc. Do not include the costs of consultants or personnel costs of delegate agencies or of specific project(s) or businesses to be financed by the applicant. Administrative costs may not be charged to the Federal grant.

Fringe Benefits

Description: Costs of employee fringe benefits unless treated as part of an approved indirect cost rate.

Justification: Provide a breakdown of the amounts and percentages that comprise fringe benefit costs such as

health insurance, FICA, retirement insurance, taxes, etc.

Travel

Description: Costs of project-related travel by employees of the applicant organization (does not include costs of consultant travel).

Justification: For each trip, show the total number of traveler(s), travel destination, duration of trip, per diem, mileage allowances, if privately owned vehicles will be used, and other transportation costs and subsistence allowances.

Equipment

Description: ''Equipment'' means an article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition cost which equals or exceeds the lesser of (a) the capitalization level established by the organization for the financial statement purposes, or (b) $5,000. (Note: Acquisition cost means the net invoice unit price of an item of equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired. Ancillary charges, such as taxes, duty, protective in-transit insurance, freight, and installation shall be included in or excluded from acquisition cost in accordance with the organization's regular written accounting practices.)

Justification: For each type of equipment requested, provide a description of the equipment, the cost per unit, the number of units, the total cost, and a plan for use on the project, as well as use or disposal of the equipment after the project ends. An applicant organization that uses its own definition for equipment should provide a copy of its policy or section of its policy which includes the equipment definition.

Supplies

Description: Costs of all tangible personal property other than that included under the Equipment category.

Justification: Specify general categories of supplies and their costs. Show computations and provide other information which supports the amount requested.

Contractual

Description: Costs of all contracts for services and goods except for those which belong under other categories such as equipment, supplies, construction, etc. Third-party evaluation contracts (if applicable) and contracts with secondary recipient organizations, including delegate agencies and specific project(s) or businesses to be financed by the applicant, should be included under this category.

Justification: All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. Recipients and subrecipients, other than States that are required to use procedures in 45 CFR part 92, must justify any anticipated procurement action that is expected to be awarded without competition and exceed the simplified acquisition threshold fixed at 41 U.S.C. 403(11) (currently set at $100,000). Recipients might be required to make available to ACF pre-award review and procurement documents, such as request for proposals or invitations for bids, independent cost estimates, etc.

Note: Whenever the applicant intends to delegate part of the project to another agency, the applicant must provide a detailed budget and budget narrative for each delegate agency, by agency title, along with the required supporting information referred to in these instructions.

Other

Indicate the totals for all other costs. Such costs, where applicable and appropriate, may include but are not limited to insurance, food, medical and dental costs (noncontractual), professional services costs, space and equipment rentals, printing and publication, computer use, training costs, such as tuition and stipends, staff development costs, and administrative costs.

Justification: Provide computations, a narrative description and a justification for each cost under this category.

H. Administrative Costs

No federal funds from a grant made under this program may be used for administrative expenses.

I. Indirect Costs

Total amount of indirect costs. This category should be used only when the applicant currently has an indirect cost rate approved by the Department of Health and Human Services (HHS) or another cognizant Federal agency.

Justification: An applicant that will charge indirect costs to the grant must enclose a copy of the current rate agreement. If the application organization is in the process of initially developing or renegotiating a rate, it should immediately upon notification that an award will be made, develop a tentative indirect cost rate proposal based on its most recently completed fiscal year in accordance with the principles set forth in the cognizant agency's guidelines for establishing indirect cost rates, and submit it to the cognizant agency. Applicants awaiting approval of their indirect cost proposals may also request indirect costs. It should be noted that when an indirect cost rate is requested, those costs included in the indirect cost pool should not also be charged as direct costs to the grant. Also, if the applicant is requesting a rate which is less than what is allowed under the program, the authorized representative of the applicant organization must submit a signed acknowledgment that the applicant is accepting a lower rate than allowed.

J. Program Income

The estimated amount of income, if any, expected to be generated from this project.

Justification: Describe the nature, source and anticipated use of program income in the budget or refer to the pages in the application which contain this information.

K. Non-Federal Resources

Amounts of non-Federal resources that will be used to support the project as identified in Block 15 of the SF–424.

Justification: The firm commitment of these resources must be documented and submitted with the application in order to be given credit in the review process. A detailed budget must be prepared for each funding source.

L. Evaluation Criteria

Each application which passes the initial screening will be addressed and scored by three independent reviewers. Each reviewer will give a numerical score for each application reviewed. These numerical scores will be supported by explanatory statements on a formal rating form describing major strengths and weaknesses under each applicable criterion published in the Announcement. Scoring will be based on a total of 100 points, and for each application will be the average of the scores of the three reviewers.

The competitive review of proposals will be based on the degree to which applicants adhere to the program requirements and incorporate each of the Elements and Sub-Elements below into their proposals.

Review Criteria—Proposal Elements and Review Criteria for Applications

Purpose

Any instructional activity carried out by an eligible service provider receiving a grant under this program announcement shall be carried out on the campus of an institution of higher

education (as defined in section 1201(a) of the Higher Education Act) and shall include—

a. Access to the facilities and resources of such institution;

b. An initial medical examination and follow-up referral or treatment, without charge, for youth during their participation in such activity;

c. At least one nutritious meal daily, without charge, for participating youth during each day of participation;

d. High quality instruction in a variety of sports (that shall include swimming and that may include dance and any other high quality recreational activity) provided by coaches and teachers from institutions of higher education and from elementary and secondary schools (as defined in section 14101 of the Elementary and Secondary Education Act of 1965); and

e. Enrichment instruction and information on matters relating to the well-being of youth, to include educational opportunities and study practices, education for the prevention of drug and alcohol abuse, health and nutrition, career opportunities, and family and job responsibilities.

The eligible service provider shall, in each community in which a program is funded shall ensure that:

a. A community-based advisory committee is established, with representatives from local youth, family, and social service organizations, schools, entities providing park and recreation services, and other community-based organizations serving high-risk youth;

b. An existing community-based advisory board, commission, or committee with similar membership is utilized to serve the committee described above; and

c. Enter into formal partnerships with youth serving organizations or other appropriate social service entities in order to link program participants with year-round services in their home communities that support and continue the objectives of this subtitle.

Review Criteria—Objectives and Need for Assistance (Maximum: 5 points)

The applicant should clearly define the specific needs that the project will address and state its underlying assumptions about how these specific needs can be addressed by the proposed project. As previously noted, any relevant data based on planning studies should be included or referred to in the endnotes/footnotes and demographic data and participant/beneficiary information should be incorporated, as needed. In developing the project description, the applicant may also volunteer or be requested to provide information on the total range of projects currently being conducted and supported (or to be initiated), some of which may be outside the scope of the program announcement.

Review Criteria—Organizational Profile (Maximum: 25 Points)

Organizational Experience in Program Area and Staff Responsibilities

a. Organizational experience in program area (0–10 points). Documentation provided indicates that projects previously undertaken have been relevant and effective and have provided significant benefits to low-income youth. Information provided should also address the achievements and competence of any participating institutions.

b. Management history (0–5 points). Applicants must fully detail their ability to implement sound and effective management practices. If they have been recipients of other Federal or other governmental grants, they must also detail that they have consistently complied with financial and program progress reporting and audit requirements. Applicants should submit any available documentation on their management practices and progress reporting procedures. Applicant should also submit a statement by a Certified or Licensed Public Accountant as to the sufficiency of the applicant's financial management system to protect any Federal funds which may be awarded under this program.

c. Staffing skills, resources and responsibilities (0–10 points). Applicant must briefly describe the experience and skills of the proposed project director showing that the individual is not only well qualified but that his/her professional capabilities are relevant to the successful implementation of the project. If the key staff person has not been identified, the application should contain a comprehensive position description which indicates that the responsibilities assigned to the project director are relevant to the successful implementation of the project.

The application must indicate that the applicant and the subgrantees or delegate institutions have adequate facilities and resources (i.e. space and equipment) to successfully carry out the proposed work plan. The application must clearly show that sufficient time of the Project Director and other senior staff will be budgeted to assure timely implementation and oversight of the project and that the assigned responsibilities of the staff are appropriate to the tasks identified for the project.

Review Criteria—Approach—Project Design and Implementation (Maximum: 40 Points)

Approach I: Location and Number of Institutions of Higher Education (Maximum: 20 points).

a. Applicant must describe and document the number and location of Institutions of Higher Education committed to participation in this program, with special attention to documenting the accessibility of the schools to economically disadvantaged communities. (0–12 points).

b. Applicant must describe in the aggregate the facilities which will be available on the campuses of the institutions to be used in the program (swimming pools, medical facilities, food preparation facilities, etc). (0–8 points).

Approach II: Adequacy of Work Program (Maximum: 20 Points).

a. Applicant must set forth realistic weekly time targets for the summer program. The time targets should specify the tasks to be accomplished in the given time frames. (0–8 points).

b. Applicant must address the legislatively-mandated activities found in Part I(A), to include: (1) Project priorities and rationale for selecting them; (2) project goals and objectives; and (3) project activities. (0–12 points)

Review Criteria—Adequacy of Budget (Maximum: 10 Points)

Budget is adequate and funds requested are commensurate with the level of effort necessary to accomplish the goals and objectives of the program. The estimated cost of the project to the government is reasonable in relation to the anticipated results.

Evaluation Criteria—Results or Benefits Expected (Maximum: 20 Points)

Element I: Significant and Beneficial Impact.

a. Applicant proposes to improve nutritional services to the participating youths (0–5 points).

b. Project incorporates medical examinations along with follow-up referral or treatment without charge (0–5 points).

c. Project includes counseling related to drug and alcohol abuse by couselors with experience in those areas as a major element (0–5 points).

d. Project makes use of an existing outreach activity of a community action agency or some other community-based organization (0–5 points).

Part IV—Application Procedures

A. Availability of Forms

Attachments B through J contain all of the standard forms under this OCS program. These attachments and PARTS V, and VI of this Notice contain all the instructions required for submittal of applications.

B. Application Submission

Mailing Address: NYSP applications should be mailed to the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Grants Management, Office of Child Support Enforcement, Attn: NYSP Program, 370 L'Enfant Promenade, SW., 4th Floor West, Washington, DC 20447.

Number of Copies Required. One signed original application and two copies must be submitted at the time of initial submission. (OMB 0970–0139). Two additional optional copies would be appreciated to facilitate the processing of applications.

Deadline: Mailed applications shall be considered as meeting an announced deadline if they are received on or before the deadline time and date at the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Grants Management, Office of Child Support Enforcement, Attn: NYSP Program, 370 L'Enfant Promenade, SW., 4th Floor West, Washington, DC 20447. Applicants are responsible for mailing applications well in advance, when using all mail services, to ensure that the applications are received on or before the deadline time and date.

Applications hand carried by applicants, applicant couriers, or by other representatives or the applicant shall be considered as meeting an announced deadline if they are received on or before the deadline date, between the hours of 8 a.m. and 4:30 p.m., EST at the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Grants Management, Office of Child Support Enforcement, ACF Mailroom, 2nd Floor (near loading dock), Aerospace Center, 901 ''D'' Street, SW., Washington, DC 20024, between Monday and Friday (excluding Federal holidays). (Applicants are cautioned that express/overnight mail services do not always deliver as agreed). The address must appear on the envelope/package containing the application with the note ''Attention: NYSP Program.''

ACF cannot accommodate transmission of applications by fax or through other electronic media. Therefore, applications transmitted to ACF electronically will not be accepted regardless of Date or Time of submission and time of receipt.

Late applications: Applications which do not meet the criteria above are considered late applications. ACF shall notify each late applicant that its application will not be considered in the current competition.

Extension of deadline: ACF may extend application deadlines when circumstances such as acts of God such as floods, hurricanes, etc. occur, when there are widespread disruptions of mail service, or in other rare cases. A determination to extend or waive deadline requirements rest with ACF's Chief Grants Management Officer.

Intergovernmental Review: This program is covered under Executive Order 12372, Intergovernmental Review of Federal Programs, and 45 CFR Part 100, Program and Activities. Under the order States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

All States and Territories except Alabama, Alaska, Arizona, Colorado, Connecticut, Kansas, Hawaii, Idaho, Indiana, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, New York, Ohio, Oklahoma, Oregon, Palau, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia, Washington and Wyoming have elected to participate in the Executive Order process and have established Single Points of Contacts (SPOCs). Applicants from these twenty-seven jurisdictions need take no action regarding E.O. 12372. Applicants for projects to be administered by Federally-recognized Indian Tribes are also exempt from the requirements of E.O. 12372. Otherwise, applicants should contact their SPOCs as soon as possible to alert them of the prospective applications and receive any necessary instructions. Applicants must submit any required material to the SPOCs as soon as possible so that the program office can obtain and review SPOC comments as part of the award process. It is imperative that the applicant submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the Standard Form 424, item 16a.

Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline to comment on proposed new or competing continuation awards.

When comments are submitted directly to ACF, they should be addressed to: Department of Health and Human Services, Administration for Children and Families, OCSE Office of Grants Management, 4th Floor West, 370 L'Enfant Promenade, SW., Washington, DC 20447.

A list of the Single Points of Contact for each State and Territory is included as Attachment K to this Announcement.

C. Application Consideration

Applications which meet the screening requirements in Section D below will be reviewed competitively. Such applications will be referred to reviewers for a numerical score and explanatory comments based solely on responsiveness to program guidelines and evaluation criteria published in this announcement. The applications will be reviewed by qualified reviewers. The results of these reviews will assist the Director and OCS program staff in considering competing applications. Reviewers' scores will weigh heavily in funding decisions but will not be the only factors considered. Applications will generally be considered in order of the average scores assigned by reviewers. However, highly ranked applications are not guaranteed funding since the Director may also consider other factors deemed relevant including, but not limited to, the timely and proper completion of projects funded with OCS funds granted in the last five (5) years; comments of reviewers and government officials; staff evaluation and input; previous program performance of applicants; compliance with grant terms under previous DHHS grants; audit reports; investigative reports; and applicant's progress in resolving any final audit disallowances on OCS or other Federal agency grants. OCS reserves the right to discuss applications with other Federal or non-Federal funding sources to ascertain the applicant's performance record.

D. Criteria for Reviewing Applications

All applications that meet the published deadline for submission will be screened to determine completeness and conformity to the requirements of this Announcement. Only those applications meeting the following requirements will be reviewed and evaluated competitively. Others will be returned to the applicants with a notation that they were unacceptable.

Initial Screening

(1) The application must contain a completed Standard Form 424 ''Application for Federal Assistance'' (SF–424), signed by an official of the organization applying for the grant who has authority to obligate the organization legally;

(2) One budget form (SF–424A) covering the entire NYSP project; and

(3) Signed ''Assurances'' (SF–424B) by the appropriate official.

Pre-Rating Review

Applications which pass the initial screening will be forwarded to reviewers for analytical comment and scoring based on the criteria detailed in the Section III.L above and the specific requirements contained in Part IV of this Announcement. Prior to the programmatic review, these reviewers and/or OCS staff will verify that the applications comply with this Program Announcement in the following areas:

(1) *Eligibility:* Applicant meets the eligibility requirements found in Part II.

(2) *Target Populations:* The application clearly targets the specific outcomes and benefits of the project to low-income participants as defined in the DHHS Poverty Income Guidelines (Attachment A).

(3) *Grant Amount:* The amount of funds requested does not exceed the estimated amount of $17 million.

Applications which pass the initial screening and pre-rating review will be assessed and scored by reviewers. Each reviewer will give a numerical score for each application reviewed. These numerical scores will be supported by explanatory statements on a formal rating from describing major strengths and major weaknesses under each applicable criterion published in this Announcement.

Part V. Instructions for Completing Application Forms

The standard forms attached to this announcement shall be used to apply for funds under this program announcement. It is suggested that you reproduce single-sided copies of the SF–424 and SF–424A and type your application on the copies. Please prepare your application in accordance with instructions provided on the forms(Attachment B and C) as modified by the OCS specific instructions set forth below:

Provide line item and detailed calculations for each budget object class identified on the Budget Information form. Detailed calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. The detailed budget must also include a breakout by the funding sources identified in Block 15 of SF–424.

Provide a narrative budget justification which describes how the categorical costs are derived. Discuss the necessity, reasonableness and allocability of the proposed costs.

A. SF–424—Application for Federal Assistance

(One SF–424 to be completed by applicant).

Top of Page

Where the applicant is a previous Department of Health and Human Services grantee, enter the Central Registry System Employee Identification Number (CRS/EIN) and the Payment Identifying Number, if one has been assigned, in the Block entitled *Federal Identifier* located at the top right hand corner of the form (third line from the top).

Item 1. For the purposes of this announcement, all projects are considered *Applications;* there are no Pre-applications.

Item 7. Enter ''N'' in the box for non-profit organization.

Item 9. *Name of Federal Agency*—Enter DHHS–ACF/OCS.

Item 10. *The Catalog of Federal Domestic Assistance* number for OCS programs covered under this announcement is 93.570.

Item 11. Enter a brief descriptive title of the project.

Item 13. *Proposed Project*—The project start must begin on or before June 1, 2002; the ending date should be calculated on the basis of a 60 month Project Period.

Item 15a. The amount should be no greater than $17 million.

Item 15e. These items should reflect both cash and third party, in-kind contributions for the Project Period.

B. SF–424A—Budget Information—Non-Construction Programs

(One SF–424A completed for applicant, covering the entire NYSP Project).

In completing these sections, the *Federal Funds* budget entries will relate to the requested *OCS funds only*, and *Non-Federal* will included mobilized funds from all other sources—applicant, state, local, other. *Federal funds other requested OCS funding should be included in Non-Federal entries.*

Section A—Budget Summary

You need only fill in lines 1 and 5 (with the same amounts)
Col. (a): Enter ''NYSP Program''
Col. (b): Catalog of Federal Domestic Assistance 93.570. Col. (c) and (d) not relevant to this program
Column (e)–(g): enter the appropriate grant request amount

Section B—Budget Categories

For applicants, a single SF–424A covering the entire NYSP project: complete a one-year budget in accordance with the instructions provided.

Note: With regard to Class Categories, only out-of-town travel should be entered under *Category c. Travel.* Local travel costs should be entered under *Category h. Other.* Costs of supplies should be included under *Category e. ''Supplies''* is tangible personal property other than ''equipment.'' ''Equipment'' means an article of nonexpendable, tangible personal property having a useful life of more than one year and acquisition cost which equals or exceeds the lesser of (a) the capitalization level establishing by the organization for financial statement purposes, or (b) $5,000. Articles costing less should be included in ''Supplies.''

Section C—Non-Federal Resources should be completed in accordance with the instructions provided, remembering that *''all non-OCS funds'' fall into this category.*

Section D, E and F may be left blank.

As previously noted in this Part, a supporting Budget Justification must be submitted providing details of expenditures under each budget category, with justification of dollar amounts which relate to the proposed expenditures to the work program and goals of the project.

C. SF–424B Assurances: Non-Construction Programs

(One SF–424B to be submitted by applicant).

Applicants requesting financial assistance for a non-construction project must file Standard Form 424B, ''Non-Construction Programs.'' (Attachment D). Applicants must sign and return the Standard Form 424B with their applications.

Applicants must provide a certification concerning Lobbying prior to receiving an award in excess of $100,000. Applicants shall furnish an executed copy of the lobbying certification (See Attachments G and H). Applicants must sign and return the certifications with their applications. Applicants should note that the Lobbying Disclosure Act of 1995 has simplified the lobbying information required to be disclosed under 31 U.S.C. 1352.

Applicants must make the appropriate certification on their compliance with the Drug-Free Workplace Act of 1998 and the Pro-Children Act of 1994 (Certification Regarding Smoke Free Environment). (See Attachments E and I). By signing and submitting the applications, applicants are attesting to their intent to comply with these requirements and need not mail back the certification with the applications.

Applicants must make the appropriate certification that they are not presently debarred, suspended or otherwise

ineligible for award. (See Attachment F). By signing and submitting the applications, applicants are providing the certification and need not mail back the certification with the applications. Copies of the certifications and assurances are located at the end of this announcement.

Part VI. Contents of Application and Receipt Process

Application pages should be numbered sequentially throughout the application package, beginning with a Summary/Abstract of the proposed project as page number one; and each application must include all of the following, in the order listed below:

A. Content and Order of Application

1. Table of Contents

2. *Project Summary*—provide a summary of the project description, (a page or less), that would be suitable for use in an announcement application has been selected for a grant award; which the type of project, identifies the target population and number of participants to be served, number of institutions of higher education committed to the project and the major elements of the work program.

3. A completed Standard Form 424 which has been signed by an official of the organization applying for the grant who has authority to obligate the organization legally; [Note: The original SF–424 must bear the original signature of the authorizing representative of the applicant];

4. A single *Budget Information-Non-Construction Programs (SF–424A)* for the applicant, covering the entire NYSP Project.

5. *Narrative Budget Justification* for each object class category included under Section B.

6. *Project Narrative* is limited to the number of pages specified below.

7. *Appendices,* which should include the following:

a. Filled out, signed and dated *Assurances—Non-Construction* (SF 424–B), Attachment C;

b. *Instructions for Completion of SP–LLL, Disclosure of Lobbying Activities:* fill out, sign and date form found at Attachment G;

c. *Disclosure of Lobbying Activities SF–LLL:* fill out, sign and date form found at Attachment H, if appropriate (omit Items 11–15 on the SF–LLL and ignore references to Attachment G, page, SF–LLL–A);

d. *Maintenance of Effort Certification* (See Attachment J);

e. Resumes and/or position descriptions (should be included in the appendices);

f. Single Points of Contact comments, if available.

g. and other information such: organization by-laws, articles of incorporation, proof of non-profit status, statement by a Certified or Licensed Public Accountant as to the sufficiency of the applicant's financial management system to protect Federal funds.

Note: The total number of pages for the entire application package should not exceed 50 pages, including appendices. Applications should be two holed punched at the top and fastened separately with a compressor slide paper fastener or a binder clip. The submission of bound applications, or applications enclosed in binder, is especially discouraged. Pages should be numbered sequentially throughout the application package, excluding Appendices, beginning with the Summary/Abstract as Page #1.

Applications must be uniform in composition since OCS may find it necessary to duplicate them for review purposes. Therefore, applications must be submitted on white 8½ × 11 inch paper only. They should not include colored, oversized or folded materials. Do not include organizational brochures or other promotional materials, slides, films, clips, etc. in the proposal. They may be discarded, if included.

B. Acknowledgment of Receipt

Acknowledgment of Receipt—All applicants will receive an acknowledgment with an assigned identification number. Applicants are requested to supply a self-addressed mailing label with their application which can be attached to this acknowledgment. All applicants are requested to provide a FAX number and/or e-mail address as part of their application. The assigned identification number, along with any other identifying codes, must be referenced in all subsequent communications concerning the application. If an acknowledgment and/or notice is not received within three weeks after the deadline date, please notify ACF by telephone at (202) 401–5307 or 5295.

Part VII. Post Award Information and Reporting Requirements

A. Notification of Grant Award

Following approval of the application selected for funding, notice of project approval and authority to draw down project funds will be made in writing. The official award document is the Financial Assistance Award which provides the amount of Federal funds for use in the project period, the budget period for which support is provided, and the terms and conditions of the award, the total project period for which support is contemplated, and the total required grantee financial participation, if any.

For Fiscal Years 2003–2006 the grantee will be notified of the requirements for submission of the continuation application by February of the pertinent fiscal year.

B. Reporting Requirements

Grantee will be required to submit semi-annual progress and financial reports (SF–269) throughout the project period, as well as a final program and financial report 90 after the end of the project period.

C. Audit Requirements

Grantee is subject to the audit requirements in 45 CFR Part 74 and OMB Circular A–133.

In addition to the General Conditions and Special Conditions (where the latter are warranted) which will be applicable to grant, the grantee will be subject to the provisions of 45 CFR Part 74 along with OMB Circulars A–122, A–133, and, for institutions of higher education, A–21.

D. Prohibitions and Requirements with regard to Lobbying

Section 1352 of Public Law 101–121, signed into law on October 23, 1989, imposes prohibitions and requirements for disclosure and certification related to lobbying on recipients of Federal contracts, grants, cooperative agreements, and loans. It provides exemptions for Indian Tribes and tribal organizations. Current and prospective recipients (and their subtier contractors and/or grantees) are prohibited from using Federal funds, other than profits from a Federal contract, for lobbying Congress or any Federal agency in connection with the award of a contract, grant, cooperative agreement or loan. In addition, for each award action in excess of $100,000 (or $150,000 for loans) the law requires recipients and their subtier contractors and/or subgrantees (1) to certify that they have neither used nor will use any appropriated funds for payment to lobbyists; (2) to disclose the name, address, payment details, and purpose of any agreements with lobbyists whom recipients or their subtier contractor, or subgrantees will pay with profits or nonappropriated funds on or after December 22, 1989; and (3) to file quarterly up-dates about the use of lobbyists if material changes occur in their use. The law establishes civil penalties for noncompliance. See Attachments G and H for certification and disclosure forms to be submitted with the applications for this program.

Dated: January 17, 2002.

Clarence H. Carter,

Director, Office of Community Services.

List of Attachments

A. Income Poverty Guidelines

B. Application for Federal Assistance (SF–424)

C. Budget Information—Non-Construction Programs (SF–424A)

D. Assurances—Non-Construction Programs (SF–424B)

E. Certification Regarding Drug-Free Workplace Requirements

F. Certification Regarding Debarment, Suspension, and other Responsibility Matters

G. Instructions for Completion of SF–LLL, Disclosure of Lobbying Activities

H. Disclosure of Lobbying Activities

I. Certification Regarding Environmental Tobacco Smoke

J. Certification Regarding Maintenance of Effort

K. Single Points of Contact Listing

BILLING CODE 4184–01–P

ATTACHMENT A

2001 POVERTY GUIDELINES FOR THE 48 CONTIGUOUS STATES AND THE DISTRICT OF COLUMBIA

Size of Family Unit	Poverty Guideline
1	$ 8,590
2	$11,610
3	$14,630
4	$17,650
5	$20,670
6	$23,690
7	$26,710
8	$29,730

For family units with more than 8 members, add $3,020 for each additional member. (The same increment applies to smaller family sizes also, as can be seen in the figures above).

2001 POVERTY GUIDELINES FOR ALASKA

Size of Family Unit	Poverty Guideline
1	$10,730
2	$14,510
3	$18,290
4	$22,070
5	$25,850
6	$29,630
7	$33,410
8	$37,190

For family units with more than 8 members, add $3,780 for each additional member. (The same increment applies to smaller family sizes also, as can be seen in the figures above).

2001 POVERTY GUIDELINES FOR HAWAII

Size of Family Unit	Poverty Guidelines
1	$ 9,890
2	$13,360
3	$16,830
4	$20,300
5	$23,770
6	$27,240
7	$30,710
8	$34,180

For family units with more than 8 members, add $3,470 for each additional member. (The same increment applies to smaller family sizes also, as can be seen in the figures above).

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

	2. DATE SUBMITTED	Applicant Identifier
1. TYPE OF SUBMISSION: Application ☐ Construction ☐ Non-Construction; Preapplication ☐ Construction ☐ Non-Construction	3. DATE RECEIVED BY STATE	State Application Identifier
	4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address *(give city, county, state, and zip code)*:	Name and telephone number of the person to be contacted on matters involving this application *(give area code)*

6. EMPLOYER IDENTIFICATION NUMBER *(EIN)*: ☐☐ – ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: *(enter appropriate letter in box)* ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other *(Specify)*: _____

8. TYPE OF APPLICATION: ☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other *(specify)*:

_____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: ☐☐ – ☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT *(cities, counties, states, etc.)*:

13. PROPOSED PROJECT:		14. CONGRESSIONAL DISTRICTS OF:	
Start Date	Ending Date	a. Applicant	b. Project

15. ESTIMATED FUNDING:		
a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	0.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:

DATE _____

b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED STATE FOR REVIEW

17. IS APPLICATION DELINQUENT ON ANY FEDERAL DEBT?

☐ YES If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		**e. Date Signed**

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Standard Form 424 (Rev. 7-97)
Prescribed by OMB Circular A-102

BILLING CODE 4184–01–C

Attachment B—Instructions for the SF–424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item and Entry:

1. Self-explanatory.

2. Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).

3. State use only (if applicable).

4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.

5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.

6. Enter Employer Identification Number (EIN) as assigned by Internal Revenue Service.

7. Enter the appropriate letter in the space provided.

8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:

—''New'' means a new assistance award.

—''Continuation'' means an extension for an additional funding/budget period for a project with a projected completion date.

—''Revision'' means any change in the Federal Governments financial obligation or contingent liability from an existing obligation.

9. Name of Federal agency from which assistance is being requested with this application.

10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.

11. Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

12. List only the largest political entities affected (e.g., State, counties, cities).

13. Self-explanatory.

14. List the applicant's Congressional District and District(s) affected by the program or project.

15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.

16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.

17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.

18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

BILLING CODE 4184–01–P

BUDGET INFORMATION - Non-Construction Programs

OMB Approval No. 0348-0044

SECTION A - BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. Totals		$	$	$	$	$

SECTION B - BUDGET CATEGORIES

6. Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total
	(1)	(2)	(3)	(4)	(5)
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges *(sum of 6a-6h)*					
j. Indirect Charges					
k. TOTALS *(sum of 6i and 6j)*	$	$	$	$	$
7. Program Income	$	$	$	$	$

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Standard Form 424A (Rev. 7-97)
Prescribed by OMB Circular A-102

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SECTION C - NON-FEDERAL RESOURCES				
(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTAL *(sum of lines 8-11)*	$	$	$	$

SECTION D - FORECASTED CASH NEEDS					
	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. Non-Federal					
15. TOTAL *(sum of lines 13 and 14)*	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT				
(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTAL *(sum of lines 16-19)*	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION	
21. Direct Charges:	22. Indirect Charges:
23. Remarks:	

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Standard Form 424A (Rev. 7-97) Page 2

BILLING CODE 4184-01-C

Attachment C—Instructions for the SF–424A

Public reporting burden for this collection of information is estimated to average 180 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348–0044), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A, B, C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A, B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a–k of Section B.

Section A. Budget Summary Lines 1–4, Columns (a) and (b)

For applications pertaining to a single Federal grant program (Federal Domestic Assistance Catalog number) and not requiring a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a single program requiring budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the catalog program title on each line in Column (a) and the respective catalog number on each line in Column (b).

For applications pertaining to multiple programs where one or more programs require a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1–4, Columns (c) through (g.)

For new applications, leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in column (e) the amount of the increase or decrease of Federal Funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5—Show the totals for all columns used.

Section B. Budget Categories

In the column heading (1) through (4), enter the titles of the same programs, functions, and activities shown on Line 1–4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6a–i—Show the totals of Lines 6a to 6h in each column.

Line 6j—Show the amount of indirect cost.

Line 6k—Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)–(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

Line 7—Enter the estimated amount of income, in any, expected to be generated from this project. Do not add or subtract this amount from the total project amount.

Shown under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the Federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal Resources

Line 8–11—Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a)—Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b)—Enter the contribution to be made by the applicant.

Column (c)—Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d)—Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e)—Enter totals of Columns (b), (c), and (d).

Line 12—Enter the total for each of Columns (b)–(e). The amount in Column (e) should be equal to the amount on line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13—Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14—Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15—Enter the totals of amounts on Line 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Line 16–19—Enter in Column (a) the same grant program titles shown in column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20—Enter the total for each of the Columns (b)–(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21—Use this space to explain amounts for individual direct object-class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22—Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23—Provide any other explanations or comments deemed necessary.

Attacment D—Assurances—Non-Construction Programs

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to

certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to apply the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standard or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728–4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standard for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statues relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88–352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681–1683, and 1685–1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §§ 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101–6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92–255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91–616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§ 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), as amended, relating to non-discrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statue(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statue(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of the Title II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91–646) which provide for fair and equitable treatment of person displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501–1508 and 7324–7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a–7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. § 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327–333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of section 102(a) of the Flood Disaster protection Act of 1973 (P.L. 93–234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91–190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetland pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§ 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93–523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93–205).

12. Will comply with the Wild and Scenic River Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. § 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§ 469a–1 et seq.).

14. Will comply with P.L. 93–348 regarding the protection of human subjects involved in research development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89–544, as amended, 7 U.S.C. §§ 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL

TITLE

APPLICANT ORGANIZATION

DATE SUBMITTED

Attachment E—Certification Regarding Drug-Free Workplace Requirements

This certification is required by the regulations implementing the Drug-Free Workplace Act of 1988: 45 CFR Part 76, Subpart, F. Sections 76.630(c) and (d)(2) and 76.645(a)(1) and (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification of criminal drug convictions. For the Department of Health and Human Services, the central point is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, Room 517–D, 200 Independence Avenue, SW., Washington, DC 20201.

Certification Regarding Drug-Free Workplace Requirements (Instructions for Certification)

1. By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

2. The certification set out below is a material representation of fact upon which reliance is placed when the agency awards the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, the agency, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.

3. For grantees other than individuals, Alternate I applies.

4. For grantees who are individuals, Alternate II applies.

5. Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep

the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.

6. Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios).

7. If the workplace identified to the agency changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see paragraph five).

8. Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the followingdefinitions from these rules:

Controlled substance means a controlled substance in Schedules I through V of the Controlled Substances Act (21 U.S.C. 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15);

Conviction means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

Criminal drug statute means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

Employee means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All direct charge employees; (ii) All indirect charge employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) Temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of recipients or subcontractors in covered workplaces).

Certification Regarding Drug-Free Workplace Requirements

Alternate I. (Grantees Other Than Individuals)

The grantee certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about—

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(23) Any available drug counseling, rehabilitation, and employee assistance programs;

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will—(1) Abide the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under paragraph (d)(2) from an employee or other receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant.

(f) Taking on of the following actions, within 30 calendar days of receiving notice under paragraph (d)(2), with respect to any employee who is so convicted—

(1) Taking appropriate personnel action against such employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

(B) The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code).

Check if there are workplaces on file that are not identified here.

Alternate II. (Grantees Who Are Individuals)

(a) The grantee certifies that, as a condition of the grant, he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant;

(b) If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, he or she will report the conviction, in writing, within 10 calendar days of conviction, to every grant officer or other designee, unless the Federal agency designates a central point for the receipt of such notices. When notice is made to such a central point, it shall include the identification number(s) of each affected grant.

Attachment F—Certification Regarding Debarment, Suspension and Other Responsibility Matters

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

Instructions for Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

4. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.

6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled

''Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction,'' provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

(1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal has one or more public transactions (Federal, State, or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.

4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Covered sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, [[Page 33043]] should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled ''Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions,'' without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause.

The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Attachment G-Instructions for Completion of SF-LLL, Disclosure of Lobbying Activities

This decision form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. Section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks ''subawardee'', then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 [e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency]. Include prefixes, e.g., ''RFP–DE–90–001''.

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.

(b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).

11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0343–0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management Budget, Paperwork Reduction Project (0348–0046), Washington, DC 20503.

Disclosure of Lobbying Activities Continuation Sheet

Reporting Entity: _____

_____ _____

Page _____ of _____

BILLING CODE 4184–01–C

Attachment H

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:	2. Status of Federal Action	3. Report Type:
☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	☐ a. bid/offer/application b. initial award c. post-award	☐ a. initial filing b. material change **For Material Change Only:** Year _____ Quarter _____ date of last report _____

4. Name and Address of Reporting Entity:	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:
☐ Prime ☐ Subawardee Tier _____, *if known:* **Congressional District,** *if known:*	**Congressional District,** *if known:*
6. Federal Department/Agency:	**7. Federal Program Name/Description:** **CFDA Number,** *if applicable:* _____
8. Federal Action Number, *if known:*	**9. Award Amount,** *if known:* **$**
10. a. Name and Address of Lobbying Entity *(if individual, last name, first name, MI):*	**b. Individuals Performing Services** *(including address if different from No. 10a.)* *(last name, first name, MI):*
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.	**Signature:** _____ **Print Name:** _____ **Title:** _____ **Telephone No.:** _____ **Date:** _____
Federal Use Only	Authorized for Local Reproduction Standard Form - LLL (Rev. 7-97)

BILLING CODE 4184–01–C

Attachment I—Certification Regarding Environmental Tobacco Smoke

Public Law 103–227, Part C Environmental Tobacco Smoke, also known as the Pro Children Act of 1994, requires that smoking not be permitted in any portion of any indoor routinely owned or leased or contracted for by an entity and used routinely or regularly for provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to $1000 per day and/or the imposition of an administrative compliance order on the responsible entity. By signing and submitting this application the applicant/grantee certifies that it will comply with the requirements of the Act.

The applicant/grantee further agrees that it will require the language of this certification be included in any subawards which contain provisions for the children's services and that all subgrantees shall certify accordingly.

Attachment J—Certification Regarding Maintenance of Effort

In accordance with the applicable program statute(s) and regulation(s), the undersigned certifies that financial assistance provided by the Administration for Children and Families, for the specified activities to be performed under the _____ Program by _____ (Applicant Organization), will be in addition to, and not in substitution for, comparable activities previously carried on without Federal assistance.

_____

Signature of Authorized Certifying Official

_____

Title

_____

Date

Attachment K—Intergovernment Review (SPOC List)

It is estimated that in 2001 the Federal Government will outlay $305.6 billion in grants to State and local governments. Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' was issued with the desire to foster the intergovernmental partnership and strengthen federalism by relying on State and local processes for the coordination and review of proposed Federal financial assistance and direct Federal development. The Order allows each State to designate an entity to perform this function. Below is the official list of those entities. For those States that have a home page for their designated entity, a direct link has been provided below.

States that are not listed on this page have chosen not to participate in the intergovernmental review process, and therefore do not have a SPOC. If you are located within one of these States, you may still send application materials directly to a Federal awarding agency.

Contact information for Federal agencies that award grants can be found in *Appendix IV of the Catalog of Federal Domestic Assistance.*

ARKANSAS

Tracy L. Copeland
Manager, State Clearinghouse
Office of Intergovernmental Services
Department of Finance and Administration
1515 W. 7th St., Room 412
Little Rock, Arkansas 72203
Telephone: (501) 682–1074
Fax: (501) 682–5206
tlcopeland@dfa.state.ar.us

CALIFORNIA

Grants Coordination
State Clearinghouse
Office of Planning and Research
P.O. Box 3044, Room 222
Sacramento, California 95812–3044
Telephone: (916) 445–0613
Fax: (916) 323–3018
state.clearinghouse@opr.ca.gov

DELAWARE

Charles H. Hopkins
Executive Department
Office of the Budget
540 S. Dupont Highway, 3rd Floor
Dover, Delaware 19901
Telephone: (302) 739–3323
Fax: (302) 739–5661
chopkins@state.de.us

DISTRICT OF COLUMBIA

Luisa Montero-Diaz
Office of Partnerships and Grants Development
Executive Office of the Mayor
District of Columbia Government
441 4th Street, NW, Suite 530 South
Washington, DC 20001
Telephone: (202) 727–8900
Fax: (202) 727–1652
opgd.eom@dc.gov

FLORIDA

Jasmin Raffington
Florida State Clearinghouse
Department of Community Affairs
2555 Shumard Oak Blvd.
Tallahassee, Florida 32399–2100
Telephone: (850) 922–5438
Fax: (850) 414–0479
clearinghouse@dca.state.fl.us

GEORGIA

Georgia State Clearinghouse
270 Washington Street, SW
Atlanta, Georgia 30334
Telephone: (404) 656–3855
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Changes to this list can be made only after OMB is notified by a State's officially designated representative. E-mail messages can be sent to *grants@omb.eop.gov*. If you prefer, you may send correspondence to the following postal address:

Attn: Grants Management
Office of Management and Budget
New Executive Office Building, Suite 6025
725 17th Street, NW
Washington, DC 20503

Please note: Inquiries about obtaining a Federal grant should not be sent to the OMB e-mail or postal address shown above. The best source for this information is the *CFDA*.

[FR Doc. 02–2130 Filed 1–29–02; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Statement of Organization, Functions, and Delegations of Authority

This notice amends Part K of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (DHHS), Administration for Children and Families (ACF) as follows: Chapter KB, Administration on Children, Youth and Families (ACYF) as last amended June 5, 2001 (66 FR 30215) and Chapter KM, Office of Planning, Research and Evaluation (OPRE) as last amended January 2, 1998 (63 FR 81–87). This notice realigns the research functions from the Office of the Commissioner, ACYF with the research functions in the Division of Child and Family Development, OPRE.

These Chapters are amended as follows:

I. Chapter KB, Administration on Children, Youth and Families

A. Delete KB.20 Functions, Paragraph A, in its entirety and replace with the following:

KB.20 Functions A. The Office of the Commissioner serves as principal advisor to the Assistant Secretary for Children and Families, the Secretary, and other officials of the Department on the sound development of children, youth, and families. It provides executive direction and management strategy to ACYF components. The Deputy Commissioner assists the Commissioner in carrying out the responsibilities of the Office. In addition to the Immediate Office, the Office of the Commissioner contains two organizational units. In support of the Commissioner and Deputy Commissioner and in consultation with ACYF programs the:

1. Office of Management Services manages the formulation and execution of the budgets for ACYF programs and for federal administration; serves as the central control point for operational and long range planning; functions as Executive Secretariat for ACYF, including managing correspondence, correspondence systems, and electronic mail requests; reviews and manages clearance for program announcements for ACYF, the Administration for Native Americans (ANA), and the Administration on Development Disabilities (ADD); plans for/coordinates the provision of staff development and training; provides support for ACYF's personnel administration, including staffing, employee and labor relations, performance management and employee recognition; manages procurement planning and provides technical assistance regarding procurement; plans for/oversees the discretionary grant paneling process; manages ACYF-controlled space and facilities; performs manpower planning and administration; plans for, acquires, distributes and controls ACYF supplies; provides mail and messenger services; maintains duplicating, fax, and computer and computer peripheral equipment; supports and manages automation within ACYF; provides for health and safety; and oversees travel, time and attendance, and other administrative functions for ACYF.

The Office of Management Services also reviews and approves formula and entitlement programs for ACYF's bureaus and ADD. It assures that all formula and entitlement awards conform with applicable statutes, regulations, and policies; computes grantee allocations; prepares formula and entitlement awards; ensures incorporation of necessary grant terms and conditions; monitors grantee expenditures; analyzes financial needs under formula and entitlement programs; provides data in support of apportionment requests; prepares reports and analyses on the grantees' use of funds; maintains liaison and coordination with appropriate ACF and HHS organizations to ensure consistence between ACF formula and entitlement grant systems and the Department's grant payment systems; and performs audit resolution activities for formula and entitlement programs.

2. Office of Grants Management provides management and technical administration for discretionary grants for ACYF, ADD, and ANA; reviews, certifies and/or signs all discretionary grants; assures that all discretionary grants awarded by ACYF, ADD, and ANA conform with applicable statutes, regulations, and policies; computes grantee allocations, prepares discretionary grant awards, ensures incorporation of the necessary grant terms and conditions, and monitors grantee expenditures; analyzes financial needs under discretionary grant programs; provides data in support of apportionment requests; and prepares reports and analyses on the grantee's use of funds; maintains liaison and coordination with appropriate ACF and HHS organizations to ensure consistency between ACYF, ADD, and ANA discretionary grant systems and the Department's grant payment systems; provides technical assistance to regional components on discretionary grant operations and technical grants management issues; and performs audit resolution activities for ACYF, ADD, and ANA discretionary grant programs. The Office of Grants Management coordinates and maintains liaison with the Department and other federal agencies on discretionary grants management and administration operational issues and activities.

II. Chapter KM, Office of Planning, Research, and Evaluation

A. Delete KM.20 Function, Paragraph C, in its entirety and replace with the following:

C. The Division of Child and Family Development, in cooperation with ACF programs and others, works with federal counterparts, States, community agencies, and the private sector to: improve the effectiveness and efficiency of programs; assure the protection of children and other vulnerable populations; strengthen and promote family stability; and foster sound growth and development of children and families. The Division provides guidance, analysis, technical assistance and oversight in ACF on: strategic planning and performance measurement for all ACF programs, including child and family development; statistical, policy and program analysis; surveys, research and evaluation methodologies; demonstration testing and model development; synthesis and dissemination of research and demonstration findings; and application of emerging technologies to improve the effectiveness of programs and service delivery.

The Division conducts, manages, and coordinates major cross-program, leading-edge research demonstrations and evaluation studies; and manages and conducts statistical, policy, and program analyses related to children and families. Division staff also provide consultation, coordination, direction and support for research activities related to children and families across ACF programs. The Division develops policy-relevant research priorities; manages the section 1110 social service research budget; and, in partnership with the Head Start Bureau, manages the Head Start Research budget.

Dated: January 22, 2002.

Wade F. Horn,

Assistant Secretary for Children and Families.

[FR Doc. 02–2223 Filed 1–29–02; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

State Median Income Estimates for Four-Person Families (FFY 2003); Notice of the Federal Fiscal Year (FFY) 2003 State Median Income Estimates for Use Under the Low Income Home Energy Assistance Program (LIHEAP) Administered by the Administration for Children and Families, Office of Community Services, Division of Energy Assistance

AGENCY: Office of Community Services, ACF, DHHS.

ACTION: Notice of estimated State median income for FFY 2003.

SUMMARY: This notice announces the estimated median income for four-person families in each State and the District of Columbia for FFY 2003 (October 1, 2002 to September 30, 2003). LIHEAP grantees may adopt the State median income estimates beginning with the date of this publication of the estimates in the **Federal Register** or at a later date as discussed below. This means that LIHEAP grantees could choose to implement this notice during the period between the heating and cooling seasons. However, by October 1, 2002, or by the beginning of a grantee's fiscal year, whichever is later, LIHEAP grantees using State median income estimates must adjust their income eligibility criteria to be in accord with the FFY 2003 State median income estimates.

This listing of estimated State median incomes concerns maximum income levels for households to which LIHEAP grantees may make payments under LIHEAP.

EFFECTIVE DATE: The estimates are effective at any time between the date of this publication and October 1, 2002, or by the beginning of a LIHEAP grantee's fiscal year, whichever is later.

FOR FURTHER INFORMATION CONTACT: Leon Litow,Administration for Children

and Families, HHS,Office of Community Services,Division of Energy Assistance, 5th Floor West, 370 L'Enfant Promenade, SW.,Washington, DC 20447,Telephone: (202) 401–5304,E-Mail: *llitow@acf.dhhs.gov.*

SUPPLEMENTARY INFORMATION: Under the provisions of section 2603(7) of Title XXVI of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35, as amended), we are announcing the estimated median income of a four-person family for each state, the District of Columbia, and the United States for FFY 2003 (the period of October 1, 2002, through September 30, 2003).

Section 2605(b)(2)(B)(ii) of the LIHEAP statute provides that 60 percent of the median income for each state, as annually established by the Secretary of the Department of Health and Human Services, is one of the income criteria that LIHEAP grantees may use in determining a household's eligibility for LIHEAP.

LIHEAP is currently authorized through the end of FFY 2004 by the Coats Human Services Reauthorization Act of 1998, Pub. L. 105–285, which was enacted on October 27, 1998.

Estimates of the median income of four-person families for each State and the District of Columbia for FFY 2003 have been developed by the Bureau of the Census of the U.S. Department of Commerce, using the most recently available income data. In developing the median income estimates for FFY 2003, the Bureau of the Census used the following three sources of data: (1) The March 2001 Current Population Survey; (2) the 1990 Decennial Census of Population; and (3) 2000 per capita personal income estimates, by state, from the Bureau of Economic Analysis (BEA) of the U.S. Department of Commerce.

Like the estimates for FFY 2002, the FFY 2003 estimates include income estimates from the March Current Population Survey that are based on population controls from the 1990 Decennial Census of Population. Income estimates prior to FFY 1996 from the March Current Population Survey had been based on population controls from the 1980 Decennial Census of Population. Generally, the use of 1990 population controls results in somewhat lower estimates of income.

In 1999, BEA revised its methodology in estimating per capita personal income estimates. BEA's revised methodology is reflected in the FFY 2003 state 4-person family median income estimates. Generally, the revised methodology decreased, on average, state median income estimates for FFY 2002 by about 0.04 percent. For further information on the estimating method and data sources, contact the Housing and Household Economic Statistics Division, at the Bureau of the Census (301–457–3243).

A state-by-state listing of median income, and 60 percent of median income, for a four-person family for FFY 2003 follows. The listing describes the method for adjusting median income for families of different sizes as specified in regulations applicable to LIHEAP, at 45 CFR 96.85(b), which was published in the **Federal Register** on March 3, 1988 at 53 FR 6824.

Dated: January 24, 2002.

Clarence H. Carter,

Director, Office of Community Services.

ESTIMATED STATE MEDIAN INCOME FOR 4-PERSON FAMILIES, BY STATE, FEDERAL FISCAL YEAR 2003 [1]

States	Estimated state median income 4-person families [2]	60 percent of estimated state median income 4-person families
Alabama	$51,451	$30,871
Alaska	66,874	40,124
Arizona	55,663	33,398
Arkansas	44,537	26,722
California	63,206	37,924
Colorado	66,624	39,974
Connecticut	82,702	49,621
Delaware	69,360	41,616
District of Col	63,406	38,044
Florida	55,351	33,211
Georgia	59,489	35,693
Hawaii	65,872	39,523
Idaho	53,722	32,233
Illinois	68,117	40,870
Indiana	62,079	37,247
Iowa	57,921	34,753
Kansas	56,784	34,070
Kentucky	51,249	30,749
Louisiana	47,363	28,418
Maine	56,186	33,712
Maryland	77,562	46,537
Massachusetts	78,025	46,815
Michigan	68,740	41,244
Minnesota	70,553	42,332
Mississippi	46,331	27,799
Missouri	61,173	36,704
Montana	46,142	27,685
Nebraska	57,040	34,224
Nevada	59,614	35,768
New Hampshire	71,661	42,997
New Jersey	78,560	47,136
New Mexico	47,314	28,388
New York	64,520	38,712
North Carolina	57,203	34,322
North Dakota	53,140	31,884

ESTIMATED STATE MEDIAN INCOME FOR 4-PERSON FAMILIES, BY STATE, FEDERAL FISCAL YEAR 2003[1]—Continued

States	Estimated state median income 4-person families[2]	60 percent of estimated state median income 4-person families
Ohio	62,251	37,351
Oklahoma	48,459	29,075
Oregon	58,315	34,989
Pennsylvania	65,411	39,247
Rhode Island	68,418	41,051
South Carolina	56,294	33,776
South Dakota	55,150	33,090
Tennessee	54,899	32,939
Texas	53,513	32,108
Utah	57,043	34,226
Vermont	59,125	35,475
Virginia	68,054	40,832
Washington	63,568	38,141
West Virginia	46,270	27,762
Wisconsin	66,725	40,035
Wyoming	55,859	33,515

Note: FFY 2003 covers the period of October 1, 2002 through September 30, 2003. The estimated median income for 4-person families living in the United States is $62,228 for FFY 2003. The estimates are effective for the Low Income Home Energy Assistance Program (LIHEAP) at any time between the date of this publication and October 1, 2002, or by the beginning of a LIHEAP grantee's fiscal year, whichever is later.

[1] In accordance with 45 CFR 96.85, each State's estimated median income for a 4-person family is multiplied by the following percentages to adjust for family size: 52% for one person, 68% for two persons, 84% for three persons, 100% for four persons, 116% for five persons, and 132% for six persons. For family sizes greater than six persons, add 3% for each additional family member and multiply the new percentage by the State's estimated median income for a 4-person family.

[2] Prepared by the Bureau of the Census from the March 2001 Current Population Survey, 1990 Decennial Census of Population and Housing, and 2000 per capita personal income estimates, by state, from the Bureau of Economic Analysis (BEA). In 1999, BEA revised its methodology in estimating per capita personal income estimates. BEA's revised methodology is reflected in the FFY 2003 state 4-person family median income estimates. For further information, contact the Housing and Household Economic Statistics Division at the Bureau of the Census (301–457–3243).

[FR Doc. 02–2224 Filed 1–29–02; 8:45 am]
BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98D–0016]

Withdrawal of Guidance Document on Professional Flexible Labeling of Antimicrobial Drugs

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing a guidance for industry (#66) entitled ''Professional Flexible Labeling of Antimicrobial Drugs.'' This guidance, which was issued in August 1998, is being withdrawn because it does not represent current agency thinking on the development of professional flexible labeling for therapeutic veterinary prescription antimicrobial drugs. The agency intends to develop a new document on this topic.

DATES: Submit written or electronic comments at any time.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments. Comments should be identified with the full title of the guidance and the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Andrew J. Beaulieu, Center for Veterinary Medicine (HFV–1), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20851, 301–827–2954.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is withdrawing a guidance for industry (#66) entitled ''Professional Flexible Labeling of Antimicrobial Drugs.'' This guidance addresses the development of professional flexible labeling for prescription therapeutic antimicrobial new animal drugs. This guidance is being withdrawn because the agency now believes that the ''broad indication'' that was described in the guidance, particularly the very broad indication used as an example, is not consistent with the kind of database that typically can be generated to support an antimicrobial new animal drug approval. In the **Federal Register** of July 28, 1999 (64 FR 40746), the agency revised its definition of ''substantial evidence'' in the animal drug regulations (21 CFR 514.4). In light of that definition and experience regarding the manner in which products are being advertised or otherwise promoted for use under the ''broad indication'' provision of the guidance, FDA is withdrawing this guidance. The guidance no longer reflects the agency's current thinking on how sponsors can provide substantial evidence of effectiveness for all of the conditions that could fall within a ''broad'' (or ''collective'') indication on the label of a prescription therapeutic antimicrobial new animal drug.

The agency intends to develop a new guidance on this issue and will publish it as a level 1 draft guidance in accordance with the agency's good guidance practices in 21 CFR 10.115. The focus of the revisions will be the ''Indications'' and ''Microbiology'' sections of the guidance. The guidance revisions will more clearly set out the basis for the ''Indication'' section as ''substantial evidence of effectiveness''. In the interim, sponsors of antimicrobial products should consult with the Center for Veterinary Medicine (CVM) at FDA for more detailed information regarding acceptable content for the ''Indications'' and ''Microbiology'' sections of the labeling. In general, CVM encourages sponsors to discuss all aspects of product development through

presubmission conferences and other meetings with CVM.

II. Significance of Guidance

This information is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). It does not create or confer any rights for or on any person and does not operate to bind FDA or the public.

III. Comments

The agency welcomes comments on its efforts to review existing guidances related to the development of new animal drug products and revise, reformat, or withdraw them, as appropriate.

Interested persons may submit written or electronic comments on agency guidance documents to the Dockets Management Branch (address above) at any time. Two copies of any written comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. A copy of received comments is available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 23, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–2212 Filed 1–29–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Committee; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act, (Public Law 92–463), announcement is made of the following National Advisory Committee scheduled to meet during the month of February 2002.

Name: Advisory Committee on Interdisciplinary, Community-Based Linkages.

Date and Time: February 4, 2002; 8 a.m.–5 p.m.; February 5, 2002; 8 a.m.–5 p.m.; February 6, 2002; 8 a.m.–1 p.m.

Place: The Doubletree Hotel, Rockville, Maryland, 1750 Rockville Pike, Rockville, Maryland 20852.

The meeting is open to the public.

Agenda items will include, but not be limited to: Welcome; introduction of the Division of State, Community and Public Health Staff; members' reactions to the inaugural report submitted to the Secretary of Health and Human Services, November 2001; Federal staff reactions to report; and plenary discussion of Committee goals for 2002–2003; ongoing guidance provided on an ad hoc basis by Federal program staff from the Division of State, Community and Public Health; general discussion among Committee members of its charge under Section 756 of the Public Health Service Act, to include discussion of Committee reports; scheduling of the next Committee meeting, which shall include but not be limited to: General discussion of topics to be addressed during the next Committee meeting.

Public comment will be permitted before lunch and at the end of the Committee meeting on February 4, 2002. Oral presentations will be limited to 5 minutes per public speaker. Persons interested in providing an oral presentation should submit a written request, with a copy of their presentation to: Mrs. Tempie Desai, Principal Staff Liaison, Division of State, Community and Public Health, Bureau of Health Professions, Health Resources and Services Administration, Room 9–105, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–0132.

Requests should contain the name, address, telephone number, and any business or professional affiliation of the person desiring to make an oral presentation. Groups having similar interests are requested to combine their comments and present them through a single representative. The Division of State, Community and Public Health will notify each presenter by mail or telephone of their assigned presentation time.

Persons who do not file an advance request for a presentation, but wish to make an oral statement may register to do so at the Doubletree Hotel, Rockville, Maryland, on February 4, 2002. These persons will be allocated time as the Committee meeting agenda permits.

Anyone requiring information regarding the Committee should contact Mrs. Tempie Desai, Division of State, Community and Public Health, Bureau of Health Professions, Health Resources and Services Administration, Room 9–105, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–0132.

Proposed agenda items are subject to change as priorities dictate.

Dated: January 25, 2002.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 02–2269 Filed 1–25–02; 4:37 pm]

BILLING CODE 4165–15–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4734–N–02]

Notice of Submission of Proposed Information Collection to OMB; HOME Investment Partnerships Program

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* March 1, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number (2506–0171) should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Q, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail *Wayne_Eddins@HUD.gov;* telephone(202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice also lists the following information:

Title of Proposal: HOME Investment Partnerships Program.

OMB Approval Number: 2506–0171.

Form Numbers: HUD–40093, HUD–40093A, HUD–40107 and HUD–40107A.

Description of the Need for the Informaiton and its Proposed Use: The

information sought concerns the income of program beneficiaries, the eligibility of activities, program agreements, and performance reports. The data identifies who benefits from the program and how requirements are satisfied.

Respondents: Not-for-profit institutions, State, Local or Tribal Government.

Frequency of Submission: On occasion.

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Reporting Burden	6,671		37.8		1.5		379,941

Total Estimated Burden Hours: 379,941.

Status: Revision of a currently approved collection.

Authority: Sec. 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: January 23, 2002.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 02–2176 Filed 1–29–02; 8:45 am]

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4579–FA–14]

Announcement of Funding Awards for Fiscal Year 2001 for the Housing Choice Voucher Program

AGENCY: Office of Public and Indian Housing, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this document notifies the public of funding awards for Fiscal Year (FY) 2001 to housing agencies (HAs) under the section 8 housing choice voucher program. The purpose of this notice is to publish the names, addresses, and the amount of the awards to housing agencies for housing conversion actions, special housing conversion fees, public housing relocations and replacements, litigation, and litigation counseling.

FOR FURTHER INFORMATION CONTACT: Deborah Hernandez, Director, Section 8 Financial Division, Office of Administration, Office of Public and Indian Housing, Room 4232, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone (202) 708–2934. Hearing- or speech-impaired individuals may call HUD's TDD number (202) 708–4594. (These telephone numbers are not toll-free).

SUPPLEMENTARY INFORMATION: The regulations governing the housing choice voucher program are published at 24 CFR part 982. The regulations for allocating housing assistance budget authority under section 213(d) of the Housing and Community Development Act of 1974 are published at 24 CFR part 791, subpart D.

The purpose of this rental assistance program is to assist eligible families to pay the rent for decent, safe, and sanitary housing. The FY 2001 awardees announced in this notice were provided Section 8 funds on an as needed basis, *i.e.*, not consistent with the provisions of a Notice of Funding Availability (NOFA). Announcements of awards provided consistent with NOFAs for family unification, mainstream housing, designated housing programs, and family self-sufficiency coordinators will be published in a separate **Federal Register** notice.

Awards published under this notice were provided: (1) To assist families living in HUD-owned properties that are being sold; (2) to assist families affected by the expiration or termination of assistance; (3) to assist families in properties where the owner has prepaid the HUD mortgage; (4) to provide special housing fees to compensate housing agencies for any extraordinary Section 8 administrative costs associated with the previous three categories; (5) to provide relocation and replacement housing in connection with the demolition of public housing; (6) to partially fulfill the Department's obligations in settlement decrees for lawsuits; and (7) to provide counseling and assistance to families so that they may move to areas that have low racial and ethnic concentrations.

A total of $215,558,491 in budget authority for rental vouchers (36,500 units) was awarded to recipients under all of the above-mentioned categories.

In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), the Department is publishing the names, addresses, and amounts of those awards as shown in Appendix A.

Dated: January 23, 2002.

Michael Liu,

Assistant Secretary for Public and Indian Housing.

APPENDIX A.—SECTION 8 RENTAL ASSISTANCE PROGRAMS ANNOUNCEMENT OF AWARDS FOR FISCAL YEAR 2001

Housing agency and address	Units	Award
LITIGATION		
DALLAS HSG AUTH, 3939 N. HAMPTON RD, DALLAS, TX 75212	500	$7,656,000
Total for Litigation	500	7,656,000
LITIGATION COUNSELING		
BRIDGEPORT HSG AUTH, 150 HIGHLAND AVENUE, BRIDGEPORT, CT 06604	0	366,000
Total for Litigation Counseling	0	366,000
PROPERTY DISPOSITION RELOCATION FEES		
MOBILE HOUSING BOARD, P.O. BOX 1345, MOBILE, AL 36633	0	15,250
PASADENA HSG AUTH, 100 N. GARFIELD AVE, ROOM 101, PASADENA, CA 91109	0	1,750
LAMAR HSG AUTH, 206 EAST CEDAR STREET, LAMAR, CO 81052	0	10,750

APPENDIX A.—SECTION 8 RENTAL ASSISTANCE PROGRAMS ANNOUNCEMENT OF AWARDS FOR FISCAL YEAR 2001—Continued

Housing agency and address	Units	Award
WATERBURY HSG AUTH, 2 LAKEWOOD ROAD, WATERBURY, CT 06704	0	14,000
KANKAKEE COUNTY HSG AUTH, 185 NORTH ST. JOSEPH AVENUE, KANKAKEE, IL 60901	0	30,750
CITY OF LOUISVILLE HA, 617 WEST JEFFERSON STREET, LOUISVILLE, KY 40202	0	15,500
BOWLING GREEN HSG AUTH, 1017 COLLEGE STREET, P.O. BOX 430, BOWLING GREEN, KY 42102	0	8,750
NEW IBERIA (CITY OF), 457 E MAIN STREET COURTHOUSE, RM 406, NEW IBERIA, LA 70560	0	31,250
MINNEAPOLIS PUB HSG AUTH, 1001 WASHINGTON AVE NORTH, MINNEAPOLIS, MN 55401	0	6,250
MISS REGIONAL HSG AUTH VIII, P.O. BOX 2347, GULFPORT, MS 39505	0	19,500
COUNTY OF CLARK HSG AUTH, 5390 EAST FLAMINGO ROAD, LAS VEGAS, NV 89122	0	6,500
NEW YORK CITY HSG AUTH, 250 BROADWAY, NEW YORK, NY 10007	0	16,250
DAYTON METRO HSG AUTH, 400 WAYNE AVE, P.O. BOX 8750, DAYTON, OH 45401	0	14,750
HSG AUTH OF CITY OF PITTSBURG, 200 ROSS STREET, PITTSBURGH, PA 15219	0	25,500
HARRISBURG HSG AUTH, 351 CHESTNUT STREET, P.O. BOX 3461, HARRISBURG, PA 17105	0	61,500
DALLAS HSG AUTH, 3939 N. HAMPTON RD, DALLAS, TX 75212	0	28,000
ARLINGTON HSG AUTH, 501 W. SANFORD, SUITE 20, ARLINGTON, TX 76011	0	12,500
OCONTO COUNTY HSG AUTH, 1201 MAIN STREET, OCONTO, WI 54153	0	2,750
WISCONSIN HSG & ECON DEV, P.O. BOX 1728, MADISON, WI 53701	0	2,250
Total for Property Disposition Relocation Fees	0	361,000
PRESERVATION/PREPAYMENT FEES		
AK HSG FINANCE CORP, P.O. BOX 101020, ANCHORAGE, AK 99510	0	11,000
HSG AUTH OF JEFFERSON COUNTY, 3700 INDUSTRIAL PARKWAY, BIRMINGHAM, AL 35217	0	41,500
CITY OF PHOENIX, NGBHD IMPROV, 251 W. WASHINGTON ST, 4TH FL, PHOENIX, AZ	0	1,500
TUCSON HSG MANAGEMENT DIV, 1501 N. ORACLE ROAD, STE 115, P.O. BOX 27210, TUCSON, AZ 85726	0	1,000
SAN FRANCISCO HSG AUTH, 440 TURK STREET, SAN FRANCISCO, CA 94102	0	2,500
LOS ANGELES COUNTY HSG AUTH, 2 CORAL CIRCLE, MONTEREY PARK, CA 91755	0	4,000
CITY OF LOS ANGELES HSG AUTH, 2600 WILSHIRE BLVD., 3RD FLOOR, LOS ANGELES, CA 90057	0	55,250
SACRAMENTO HSG & REDEV, P.O. BOX 1834, SACRAMENTO, CA 95812	0	85,500
COUNTY OF SANTA CLARA HSG AUTH, 505 WEST JULIAN ST, SAN JOSE, CA 95110	0	27,250
ALAMEDA COUNTY HSG AUTH, 22941 ATHERTON STREET, HAYWARD, CA 94541	0	23,166
LONG BEACH HSG AUTH, 521 E. 4TH STREET, LONG BEACH, CA 90802	0	15,750
SANTA CRUZ COUNTY HSG AUTH, 2160–41ST AVE, CAPITOLA, CA 95010	0	22,500
CITY OF SANTA ROSA, 90 SANTA ROSA AVE, P.O. BOX 1806, SANTA ROSA, CA 95402	0	7,500
ORANGE COUNTY HSG AUTH, 1770 NORTH BROADWAY, SANTA ANA, CA 92706	0	10,000
PUEBLO HSG AUTH, 1414 NO. SANTA FE AVENUE, PUEBLO, CO 81003	0	19,250
NORWICH HSG AUTH, 10 WESTWOOD PARK, NORWICH, CT 06360	0	17,500
CONN DEPT OF SOCIAL SERVICES, 25 SIGOURNEY STREET, 9TH FLOOR, HARTFORD, CT 06105	0	31,500
DC HSG AUTH, 1133 NO. CAPITOL STREET NE, WASHINGTON, DC 20002	0	56,750
BROWARD COUNTY HSG AUTH, 1773 NORTH STATE ROAD 7, LAUDERHILL, FL 33313	0	4,250
CITY AND COUNTY OF HONOLULU, 715 SOUTH KING ST., SUITE 311, HONOLULU, HI 96813	0	20,750
IDAHO HSG & FINANCE ASSN, 565 W MYRTLE STREET, P.O. BOX 7899, BOISE, ID 83707	0	7,500
CHICAGO HSG AUTH, 626 WEST JACKSON BLVD, CHICAGO, IL 60661	0	67,500
HSG AUTH OF COOK COUNTY, 310 SOUTH MICHIGAN AVENUE, 15TH FL, CHICAGO, IL 60604	0	1,250
FORT WAYNE HSG AUTH, P.O. BOX 13489, FORT WAYNE, IN 46869	0	31,750
INDIANA DEPT OF HUMAN SERVICES, P.O. BOX 6116, INDIANAPOLIS, IN 46206	0	21,000
JOHNSON COUNTY HSG AUTH, 9305 W. 74TH STREET, MERRIAM, KS 66204	0	24,500
COMMUNITY DEVELOPMENT AGENCY, 201 WEST WALNUT STREET, DANVILLE, KY 40422	0	11,500
LOWELL HSG AUTH, 350 MOODY STREET, LOWELL, MA 01853	0	35,250
CAMBRIDGE HSG AUTH, 675 MASSACHUSETTS AVENUE, CAMBRIDGE, MA 02139	0	37,250
NEW BEDFORD HSG AUTH, P.O. BOX A–2081, NEW BEDFORD, MA 02741	0	750
WORCESTER HSG AUTH, 40 BELMONT STREET, WORCESTER, MA 01605	0	3,500
MEDFORD HSG AUTH, 121 RIVERSIDE AVENUE, MEDFORD, MA 02155	0	71,000
QUINCY HSG AUTH, 80 CLAY STREET, QUINCY, MA 02170	0	27,000
NORTHAMPTON HSG AUTH, 49 OLD SOUTH STREET, NORTHAMPTON, MA 01060	0	51,750
WEBSTER HOUSING AUTHORITY, GOLDEN HEIGHTS, WEBSTER, MA 01570	0	1,750
DARTMOUTH HA, 2 ANDERSON WAY, N. DARTMOUTH, MA 02747	0	49,250
MONTGOMERY CO HSG AUTH, 10400 DETRICK AVENUE, KENSINGTON, MD 20895	0	26,000
HSG AUTH OF PRINCE GEORGE'S CO, 9400 PEPPERCORN PLACE, SUITE 200, LARGO, MD 20774	0	38,000
LANSING HOUSING COMMISSION, 310 NORTH SEYMOUR STREET, LANSING, MI 48933	0	32,500
MICHIGAN STATE HSG DEV AUTH, P.O. BOX 30044, LANSING, MI 48909	0	68,750
MICHIGAN STATE HSG. DEV. AUTH, P.O. BOX 30044, LANSING, MI 48909	0	12,000
ST PAUL PUB HSG AUTH, 480 CEDAR STREET, SUITE 600, ST. PAUL, MN 55101	0	14,750
DULUTH HRA, 222 EAST 2ND ST, P.O. BOX 16900, DULUTH, MN 55816	0	10,500
ST. CLOUD HRA, 619 MALL GERMAIN SUITE 212, ST. CLOUD, MN 56301	0	23,750
OWATONNA HRA, 540 WEST HILLS CIRCLE, OWATONNA, MN 55060	0	11,000
MISS REGIONAL HSG AUTH VIII, P.O. BOX 2347, GULFPORT, MS 39505	0	13,750
HSG AUTH OF CITY OF ASHEVILLE, P.O. BOX 1898, ASHEVILLE, NC 28801	0	3,750
HSG AUTH OF DURHAM, 330 E MAIN STREET P.O. BOX 1726, DURHAM, NC 27702	0	21,500
HICKORY PUB HSG AUTH, 841 S CENTER STREET, P.O. BOX 2927, HICKORY, NC 28603	0	4,750
GRAHAM HSG AUTH, 109 E HILL STREET, P.O. BOX 88, GRAHAM, NC 27253	0	5,250

APPENDIX A.—SECTION 8 RENTAL ASSISTANCE PROGRAMS ANNOUNCEMENT OF AWARDS FOR FISCAL YEAR 2001—Continued

Housing agency and address	Units	Award
ISOTHERMAL PLANNING & DEV COMM, 111 W COURT STREET, P.O. BOX 841, RUTHERFORDTON, NC 28139	0	3,500
NASHUA HSG AUTH, 101 MAJOR DRIVE, NASHUA, NH 03060	0	22,000
PORTSMOUTH HSG AUTH, 245 MIDDLE STREET, PORTSMOUTH, NH 03801	0	30,000
NEWARK HSG AUTHORITY, 57 SUSSEX AVENUE, NEWARK, NJ 07103	0	4,500
NEW YORK STATE HSG FIN AGENCY, 25 BEAVER STREET, RM 674, NEW YORK, NY 10004	0	1,750
COLUMBUS METRO HSG AUTH, 880 EAST 11TH AVENUE, COLUMBUS, OH 43211	0	66,250
CUYAHOGA METRO HSG AUTH, 1441 WEST 25TH STREET, CLEVELAND, OH 44113	0	3,000
CINCINNATI METRO HSG AUTH, 16 WEST CENTRAL PARKWAY, CINCINNATI, OH 45210	0	250
DAYTON METRO HSG AUTH, 400 WAYNE AVE, POST OFFICE BOX 8750, DAYTON, OH 45401	0	7,000
ZANESVILLE METRO HSG AUTH, 407 PERSHING ROAD, ZANESVILLE, OH 43701	0	2,500
PORTAGE METRO HSG AUTH, 2832 STATE ROUTE 59, RAVENNA, OH 44266	0	5,500
WAYNE METRO HSG AUTH, 200 SOUTH MARKET STREET, WOOSTER, OH 44691	0	10,250
HAMILTON COUNTY PUB HSG AUTH, 138 EAST COURT STREET ROOM 507, CINCINNATI, OH 45202	0	20,750
FAIRFIELD METRO HSG AUTH, 1506 AMHERST PLACE, LANCASTER, OH 43130	0	14,750
HSG AUTH OF CO OF CHESTER, 30 W. BARNARD ST., WEST CHESTER, PA 19382	0	23,750
BUCKS COUNTY HSG AUTH, 350 SOUTH MAIN STREET, SUITE 205, DOYLESTOWN, PA 18901	0	149,250
ERIE COUNTY HSG AUTH, 120 S. CENTER, CORRY, PA 16407	0	48,500
WOONSOCKET HSG AUTH, 679 SOCIAL ST, WOONSOCKET, RI 02895	0	8,500
HSG AUTH OF GREENVILLE, P.O. BOX 10047, GREENVILLE, SC 29603	0	44,000
HA OF SOUTH CAROLINA REG NO 1, P.O. BOX 326, LAURENS, SC 29360	0	1,750
HSG AUTH OF BEAUFORT, P.O. BOX 1104, BEAUFORT, SC 29901	0	4,500
SIOUX FALLS HSG AUTH, 804 S. MINNESOTA, SIOUX FALLS, SD 57104	0	750
AUSTIN HSG AUTH, P.O. BOX 6159, AUSTIN, TX 78762	0	43,750
FORT WORTH HSG AUTH, P.O. BOX 430, 1201 E. 13TH ST., FORT WORTH, TX 76101	0	36,500
HOUSTON HSG AUTH, 2640 FOUNTAIN VIEW, HOUSTON, TX 77057	0	42,000
SAN ANTONIO HSG AUTH, 818 S. FLORES STREET, P.O. BOX 1300, SAN ANTONIO, TX 78295	0	57,750
DALLAS HSG AUTH, 3939 N. HAMPTON RD., DALLAS, TX 75212	0	50,500
DENTON HSG AUTH, 1225 WILSON STREET, DENTON, TX 76205	0	21,750
TARRANT COUNTY HSG AUTH, 1200 CIRCLE DR., #100, FORT WORTH, TX 76119	0	29,750
ARLINGTON HSG AUTH, 501 W. SANFORD, SUITE 20, ALRINGTON, TX 76011	0	6,500
GARLAND HSG AUTH, P.O. BOX 469002, 210 CARVER STREET, SUITE 201B, GARLAND, TX 75046	0	53,250
MESQUITE HSG AUTH 1515 N. GALLOWAY, P.O. 850137, MESQUITE, TX 75185	0	61,041
LANCASTER HSG AUTH, P.O. BOX 310, 525 WEST PLEASANT RUN, LANCASTER, TX 75146	0	107,250
NORFOLK REDEVELOPMENT & H/A, 201 GRANBY ST, NORFOLK, VA 23510	0	20,250
VIRGINIA HSG DEV AUTH, 601 SOUTH BELVIDERE STREET, RICHMOND, VA 23220	0	15,000
HA CITY OF PASCO & FRANKLIN CO, 820 NORTH FIRST AVENUE, PASCO, WA 99301	0	6,500
HSG AUTH OF CITY OF SPOKANE, WEST 55 MISSION ST, SUITE 104, SPOKANE, WA 99201	0	7,500
HA OF CITY OF WALLA WALLA, 501 CAYUSE STREET, WALLA WALLA, WA 99362	0	6,250
Total for Preseveration/Prepayment Fees	0	$2,225,707
PRESERVATION/PREPAYMENT		
AK HSG FINANCE CORP P.O. BOX 101020, ANCHORAGE, AK 99510	60	360,720
HSG AUTH OF JEFFERSON COUNTY, 3700 INDUSTRIAL PARKWAY, BIRMINGHAM, AL 35217	192	787,968
CITY OF PHOENIX NGBHD IMPROVE, 251 W. WASHINGTON ST., 4TH FL, PHOENIX, AZ 85003	6	34,272
TUCSON HSG MANAGEMENT DIV, 1501 N. ORACLE ROAD, STE 115, P.O. BOX 27210, TUCSON, AZ 85726	4	21,312
SAN FRANCISCO HSG AUTH, 440 TURK STREET, SAN FRANCISCO, CA 94102	10	101,040
LOS ANGELES COUNTY HSG AUTH, 2 CORAL CIRCLE, MONTEREY PARK, CA 91755	16	107,136
CITY OF LOS ANGELES HSG AUTH, 2600 WILSHIRE BLVD., 3RD FLOOR, LOS ANGELES, CA 90057	221	1,561,680
SACRAMENTO HSG & REDEVELOPMENT, P.O. BOX 1834, SACRAMENTO, CA 95812	342	1,777,548
COUNTY OF SANTA CLARA HSG AUTH, 505 WEST JULIAN ST, SAN JOSE, CA 95110	111	1,216,116
ALAMEDA COUNTY HSG AUTH, 22941 ATHERTON STREET, HAYWARD, CA 94541	68	780,384
LONG BEACH HSG AUTH, 521 E. 4TH STREET, LONG BEACH, CA 90802	63	405,216
SANTA CRUZ COUNTY HSG AUTH, 2160 41ST AVE, CAPITOLA, CA 95010	90	913,680
CITY OF SANTA ROSA HSG AUTH, 90 SANTA ROSA AVE. P.O. BOX 1806, SANTA ROSA, CA 95402	30	216,360
ORANGE COUNTY HSG AUTH, 1170 NORTH BROADWAY, SANTA ANA, CA 92706	40	282,240
PUEBLO HSG AUTH, 1414 NO. SANTA FE AVENUE, PUEBLO, CO 81003	91	481,572
NORWHICH HSG AUTH, 10 WESTWOOD PARK, NORWICH, CT 06360	110	646,800
CONN DEPT OF SOCIAL SERVICES, 25 SIGOURNEY STREET, 9TH FLOOR, HARTFORD, CT 06105	73	733,626
D.C HSG AUTH, 1133 NORTH CAPITOL STREET NE, WASHINGTON, DC 20002	239	1,987,524
BROWARD COUNTY HOUSING AUTHORI, 1773 NORTH STATE ROAD 7, LAUDERHILL, FL 33313	17	112,812
CITY AND COUNTY OF HONOLULU, 715 SOUTH KING ST., SUITE 311, HONOLULU, HI 96813	106	862,416
IDAHO HSG & FINANCE ASSN, 565 2 MYRTLE STREET, P.O. BOX 7899, BOISE, ID 83707	32	129,408
CHICAGO HSG AUTH, 626 WEST JACKSON BLVD, CHICAGO, IL 60661	322	2,442,048
HSG AUTH OF COOK COUNTY, 310 SOUTH MICHIGAN AVENUE, 15TH FL, CHICAGO, IL 60604	5	36,300
FORT WAYNE HSG AUTH, P.O. BOX 13489, FORT WAYNE, IN 46869	130	650,520
INDIANA DEPT OF HUMAN SERVICES, P.O. BOX 6116, INDIANAPOLIS, IN 46206	106	381,996
JOHNSON COUNTY HSG AUTH, 9305 W. 74TH STREET, MERRIAM, KS 66201	125	636,000
COMMUNITY DEVELOPMENT AGENCY, 201 WEST WALNUT STREET, DANVILLE, KY 40422	50	162,600

APPENDIX A.—SECTION 8 RENTAL ASSISTANCE PROGRAMS ANNOUNCEMENT OF AWARDS FOR FISCAL YEAR 2001—Continued

Housing agency and address	Units	Award
LOWELL, HSG AUTH, 350 MOODY STREET, LOWELL, MA 01853	141	888,300
CAMBRIDGE HSG AUTH, 675 MASSACHUSETTS AVENUE, CAMBRIDGE, MA 02139	149	1,582,380
NEW BEDFORD HSG AUTH, P.O. BOX A–2081, NEW BEDFORD, MA 02741	3	15,516
WORCESTER HSG AUTH, 40 BELMONT STREET, WORCESTER, MA 01605	23	131,376
QUINCY HSG AUTH, 80 CLAY STREET, QUINCY, MA 02170	108	846,768
NORTHAMPTON HSG AUTH, 49 OLD SOUTH STREET, NORTHAMPTON, MA 01060	207	1,363,716
WEBSTER HSG AUTH, GOLDEN HEIGHTS, WEBSTER, MA 01570	7	42,504
DARTMOUTH HSG AUTH, 2 ANDERSON WAY, N. DARTMOUTH, MA 02747	197	1,510,596
MONTGOMERY CO HSG AUTH, 10400 DETRICK AVENUE, KENSINGTON, MD 20895	104	876,096
HSG AUTH OF PRINCE GEORGE'S CO, 9400 PEPPERCORN PLACE SUITE 200, LARGO, MD 20774	172	1,556,256
LANSING HOUSING COMMISSION, 310 NORTH SEYMOUR STREET, LANSING MI 48933	130	624,000
MICHIGAN STATE HSG DEV AUTH, P.O. BOX 30044, LANSING, MI 48909	423	2,141,020
MICHIGAN STATE HSG DEV AUTH, P.O. BOX 30044, LANSING, MI 48909	48	188,352
ST. CLOUD HRA, 619 MALL GERMAIN SUITE 212, ST. CLOUD, MN 56301	100	403,776
OWATONNA HRA, 540 WEST HILLS CIRCLE, OWATONNA, MN 55060	44	155,760
MISS REGIONAL HSG AUTH VIII, P.O. BOX 2347, GULFPORT, MS 39505	59	259,836
HSG AUTH OF CITY OF ASHEVILLE, P.O. BOX 1898, ASHEVILLE, NC 28801	26	101,088
HSG AUTH OF DURHAM, 330 E MAIN STREET, P.O. BOX 1726, DURHAM, NC 27702	143	799,656
HICKORY PUB HSG AUTH, 841 S CENTER STREET, P.O. BOX 2927, HICKORY, NC 28603	19	74,100
GRAHAM HSG AUTH, 109 E HILL STREET, P.O. BOX 88, GRAHAM, NC 27253	21	94,500
ISOTHERMAL PLANNING & DEV COMM, 111 W COURT STREET, P.O. BOX 841, RUTHERFORDTON, NC 28139	44	154,704
PORTSMOUTH HSG AUTH, 245 MIDDLE STREET, PORTSMOUTH, NH 03801	120	699,840
NEWARK HSG AUTH, 57 SUSSEX AVENUE, NEWARK, NJ 07103	31	203,856
NEW YORK STATE HSG FIN AGENCY, 25 BEAVER STREET, RM 674, NEW YORK, NY 10004	7	54,768
COLUMBUS METRO HSG AUTH, 880 EAST 11TH AVENUE, COLUMBUS, OH 43211	373	1,911,252
CUYAHOGA METRO HSG AUTH, 1441 WEST 25TH STREET, CLEVELAND, OH 44113	12	65,088
CINCINNATI METRO HSG AUTH, 16 WEST CENTRAL PARKWAY, CINCINNATI, OH 45210	1	4,644
DAYTON METRO HSG AUTH, 400 WAYNE AVE, POST OFFICE BOX 8750, DAYTON, OH 45401	32	145,920
ZANESVILLE METRO HSG AUTH, 407 PERSHING ROAD, ZANESVILLE, OH 43701	10	34,320
PORTAGE METRO HSG AUTH, 2832 STATE ROUTE 59, RAVENNA, OH 44266	36	111,408
WAYNE METRO HSG AUTH, 200 SOUTH MARKET STREET, WOOSTER, OH 44691	50	190,200
HAMILTON COUNTY PUBLIC HSG, 138 EAST COURT STREET ROOM 507, CINCINNATI, OH 45202	120	613,440
FAIRFIELD METRO HSG AUTH, 1506 AMHERST PL., LANCASTER, OH 43130	60	248,400
HSG AUTH OF COUNTY OF CHESTER, 30 W. BARNARD ST., WEST CHESTER, PA 19382	95	685,140
BUCKS COUNTY HSG AUTH, 350 SOUTH MAIN STREET, SUITE 205, DOYLESTOWN, PA 18901	597	3,474,540
ERIE COUNTY HSG AUTH, 120 S. CENTER, CORRY, PA 16407	194	731,568
WOONSOCKET HSG AUTH, 679 SOCIAL ST., WOONSOCKET, RI 02895	37	192,696
HSG AUTH OF GREENVILLE, P.O. BOX 10047, GREENVILLE, SC 29603	176	813,120
HA OF SOUTH CAROLINA REG NO 1, P.O. BOX 326, LAURENS, SC 29360	10	32,040
HSG AUTH OF BEAUFORT, P.O. BOX 1104, BEAUFORT, SC 29901	20	84,000
SIOUX FALLS HSG AUTH, 804 S. MINNESOTA, SIOUX FALLS, SD 57104	3	13,464
AUSTIN HSG AUTH, P.O. BOX 6159, AUSTIN, TX 78762	235	1,680,720
FORT WORTH HSG AUTH, P.O. BOX 430, 1201 E. 13TH ST., FORT WORTH, TX 76101	146	753,360
HOUSTON HSG AUTH, 2640 FOUNTAIN VIEW, HOUSTON, TX 77057	170	992,040
SAN ANTONIO HSG AUTH, 818 S. FLORES STREET, P.O. BOX 1300, SAN ANTONIO, TX 78295	268	1,551,936
DALLAS HSG AUTH, 3939 N. HAMPTON RD., DALLAS, TX 75212	202	1,546,512
DENTON HSG AUTH, 1225 WILSON STREET, DENTON, TX 76205	87	528,864
TARRANT COUNTY HSG AUTH, 1200 CIRCLE DR., #100, FORT WORTH, TX 76119	128	645,888
ARLINGTON HSG AUTH, 501 W. SANFORD, SUITE 20, ARLINGTON, TX 76011	26	154,752
GARLAND HSG AUTH, 210 CARVER STREET, SUITE 201B, GARLAND, TX 75046	216	1,355,616
MESQUITE HSG AUTH, 1515 N. GALLOWAY, P.O. BOX 850137, MESQUITE, TX 75185	122	1,392,320
LANCASTER HSG AUTH, P.O. BOX 310, 525 WEST PLEASANT RUN, LANCASTER, TX 75146	434	2,574,720
NORFOLK REDEV & HSG AUTH, 201 GRANBY ST., NORFOLK, VA 23510	83	364,536
VIRGINIA HSG DEVELOPMENT AUTH, 601 SOUTH BEL VIDERE STREET, RICHMOND, VA 23220	60	280,800
HA CITY OF PASCO & FRANKLIN CO, 820 NORTH FIRST AVENUE, PASCO, WA 99301	26	131,040
HSG AUTH OF CITY OF SPOKANE, WEST 55 MISSION ST., SUITE 104, SPOKANE, WA 99201	37	153,624
HSG AUTH OF WALLA WALLA, 501 CAYUSE STREET, WALLA WALLA, WA 99362	28	104,160
Total for Preservation/Prepayments	9,079	56,160,186
PROPERTY DISPOSITION RELOCATION		
MOBILE HOUSING BOARD, P.O. BOX 1345, MOBILE, AL 36633	90	399,600
HSG AUTH OF DECATUR, P.O. BOX 878, DECATUR, AL 35602	24	93,600
HSG AUTH OF EUFAULA, P.O. BOX 36, EUFAULA, AL 36027	52	133,529
HSG AUTH OF CITY OF LITTLE ROCK, 1000 WOLFE STREET, LITTLE ROCK, AR 72202	0	171,841
PASADENA HSG AUTH, 100 N. GARFIELD AVE., ROOM 101, PASADENA, CA 91109	12	79,344
LAMAR HSG AUTH, 206 EAST CEDAR STREET, LAMAR, CO 81052	48	207,360
WATERBURY HSG AUTH, 2 LAKEWOOD ROAD, WATERBURY, CT 06704	80	446,400
HSG AUTH OF ATLANTA GA, 739 WEST PEACHTREE STREET NE., ATLANTA, GA 30308	208	1,520,064
CHICAGO HSG AUTH, 626 WEST JACKSON BLVD, CHICAGO, IL 60661	59	548,045

APPENDIX A.—SECTION 8 RENTAL ASSISTANCE PROGRAMS ANNOUNCEMENT OF AWARDS FOR FISCAL YEAR 2001—Continued

Housing agency and address	Units	Award
KANKAKEE COUNTY HSG AUTH, 185 NORTH ST. JOSEPH AVENUE, KANKAKEE, IL 60901	132	614,592
TOPEKA HSG AUTH, 2010 SE CALIFORNIA AVE., TOPEKA, KS 66607	30	134,640
CITY OF LOUISVILLE HSG AUTH, 617 WEST JEFFERSON STREET, LOUISVILLE, KY 40202	62	238,824
BOWLING GREEN HA, 1017 COLLEGE STREET, P.O. BOX 430, BOWLING GREEN, KY 42102	68	237,456
KENTUCKY HSG CORPORATION, 1231 LOUISVILLE ROAD, FRANKFORT, KY 40601	60	236,054
CITY OF NEW IBERIA HSG AUTH, 457 E MAIN STREET COURTHOUSE, RM 406, NEW IBERIA, LA 70560	126	367,416
MICHIGAN STATE HSG DEV AUTH, P.O. BOX 30044, LANSING, MI 48909	216	931,728
MINNEAPOLIS PUB HSG AUTH, 1001 WASHINGTON AVE NORTH, MINNEAPOLIS, MN 55401	30	207,000
WORTHINGTON HRA, 819 TENTH STREET, WORTHINGTON, MN 56187	24	64,800
HSG AUTH OF KANSAS CITY, 301 EASTARMOUR BLVD., KANSAS CITY, MO 64111	240	1,165,338
MISS REGIONAL HSG AUTH VIII, P.O. BOX 2347, GULFPORT, MS 39505	208	913,536
COUNTY OF CLARK HSG AUTH, 5390 EAST FLAMINGO ROAD, LAS VEGAS, NV 89122	26	156,000
NEW YORK CITY HSG AUTH, 250 BROADWAY, NEW YORK, NY 10007	76	552,672
DAYTON METRO HSG AUTH, 400 WAYNE AVE, P.O. BOX 8750, DAYTON, OH 45401	79	360,240
HSG AUTH CITY OF PITTSBURG, 200 ROSS STREET, PITTSBURGH, PA 15219	423	2,005,020
HARRISBURG HSG AUTH, 351 CHESTNUT STREET, P.O. BOX 3461, HARRISBURG, PA 17105	301	1,524,264
PUERTO RICO HSG FINANCE CORP, CALL BOX 71361–GPO, SAN JUAN, PR 00936	50	271,200
HSG AUTH OF AIKEN, P.O. BOX 889, AIKEN, SC 29802	88	441,408
YANKTON HSG & REDEV COMMISSION, P.O. BOX 176, YANKTON, SD 57078	36	98,928
CHATTANOOGA HSG AUTH, P.O. BOX 1486, CHATTANOOGA, TN 37402	204	708,312
DALLAS HSG AUTH, 3939 N. HAMPTON RD, DALLAS, TX 75212	112	857,472
WACO HSG AUTH, P.O. BOX 978, 1001 WASHINGTON, WACO, TX 76703	224	916,608
ARLINGTON HSG AUTH, 501 W. SANFORD, SUITE 20, ARLINGTON, TX 76011	50	298,200
MARINETTE CO HSG AUTH, 926 MAIN STREET, P.O. BOX 438, WAUSAUKEE, WI 54177	60	109,032
OCONTO COUNTY HSG AUTH, 1201 MAIN STREET, OCONTO, WI 54153	20	60,720
WISCONSIN HSG & ECON DEV AUTH, P.O. BOX 1728, MADISON, WI 53701	20	73,680
Total for Property Disposition Relocation	3,538	17,144,923
PUBLIC HOUSING RELOCATION/REPLACEMENT		
HSG AUTH OF BIRMINGHAM DIST, 1826 3RD AVE. SOUTH, BIRMINGHAM, AL 35233	320	934,704
HSG AUTH OF CITY OF LITTLE ROCK, 1000 WOLFE STREET, LITTLE ROCK, AR 72202	233	974,369
TUCSON HSG MANAGEMENT DIV, 1501 N. ORACLE ROAD, SUITE 115 P.O. BOX 27210, TUCSON, AZ 85726	78	426,816
SAN FRANCISCO HSG AUTH, 440 TURK STREET, SAN FRANCISCO, CA 94102	114	1,108,794
DENVER HSG AUTH, 777 GRANT STREET, DENVER, CO 80203	25	197,400
BRIDGEPORT HSG AUTH, 150 HIGHLAND AVENUE, BRIDGEPORT, CT 06604	6	36,864
HSG AUTH OF CITY OF NEW HAVEN, 360 ORANGE STREET, NEW HAVEN, CT 06511	18	132,500
WILMINGTON HSG AUTH, 400 WALNUT STREET, WILMINGTON, DE 19801	230	1,476,600
HSG AUTH OF SARASOTA, 1300 SIXTH STREET, SARASOTA, FL 34236	9	52,897
HSG AUTH OF WEST PALM BEACH, 3801 GEORGIA AVE, WEST PALM BEACH, FL 33405	20	115,440
BRADENTON HSG AUTH, 1300 5TH STREET WEST, BRADENTON, FL 34205	80	529,828
HSG AUTH OF SAVANNAH, P.O. BOX 1179, SAVANNAH, GA 31402	174	598,398
NEWNAN HSG AUTH, P.O. BOX 881, NEWNAN, GA 30264	68	353,872
CHICAGO HSG AUTH, 626 WEST JACKSON BLVD, CHICAGO, IL 60661	2,624	19,417,600
GARY HSG AUTH, 578 BROADWAY, GARY, IN 46402	50	280,200
LOUISVILLE HSG AUTH, 420 SOUTH EIGHTH STREET, LOUISVILLE, KY 40203	146	830,448
LEXINGTON–FAYETTE CO HSG AUTH, 300 NEW CIRCLE ROAD, LEXINGTON, KY 40505	154	458,211
CAMBRIDGE HSG AUTH, 675 MASSACHUSETTS AVENUE, CAMBRIDGE, MA 02139	25	265,500
HSG AUTH OF BALTIMORE CITY, 417 EAST FAYETTE STREET, BALTIMORE, MD 21201	676	2,904,398
MERIDIAN HSG AUTH, N/A P.O. BOX 870, MERIDIAN, MS 39302	148	617,456
HSG AUTH OF BILOXI, P.O. BOX 447, BILOXI, MS 39533	58	259,403
MISSOULA HSG AUTH, 1319 E. BROADWAY, MISSOULA, MT 59802	35	137,864
HSG AUTH OF WINSTON–SALEM, 901 CLEVELAND AVENUE, WINSTON–SALEM, NC 27101	206	821,802
HSG AUTH OF DURHAM, 330 E MAIN STREET, P.O. BOX 1726, DURHAM, NC 27702	80	336,559
SALISBURY HSG AUTH, 200 S BOUNDARY STREET, P.O. BOX 159, SALISBURY, NC 28145	44	291,976
NEWARK HSG AUTH, 57 SUSSEX AVENUE, NEWARK, NJ 07103	563	4,614,348
CAMDEN HSG AUTH, 1300 ADMIRAL WILSON BLVD, P.O. BOX 1426, CAMDEN, NJ 08101	63	727,272
ORANGE CITY HSG AUTH, 340 THOMAS BOULEVARD, ORANGE, NJ 07050	39	281,268
EAST ORANGE HSG AUTH, 160 HALSTED STREET, EAST ORANGE, NJ 07018	34	248,880
CITY OF LAS VEGAS HSG AUTH, 420 N. 10TH STREET, P.O. BOX 1897, LAS VEGAS, NV 89125	184	1,349,088
HSG AUTH OF TROY, 1 EDDYS LAND, TROP, NY 12180	144	552,321
CUYAHOGA METRO HSG AUTH, 1441 WEST 25TH STREET, CLEVELAND, OH 44113	139	753,936
CINCINNATI METRO HSG AUTH, 16 WEST CENTRAL PARKWAY, CINCINNATI, OH 45210	692	2,128,221
TULSA HSG AUTH, P.O. BOX 6369, TULSA, OK 74148	80	175,340
PHILADELPHIA HSG AUTH, 12 SOUTH 23RD STREET, PHILADELPHIA, PA 19103	464	2,095,294
MERCER COUNTY HSG AUTH, 80 JEFFERSON AVENUE, P.O. BOX 683, SHARON, PA 16146	18	53,352
DELAWARE COUNTY HSG AUTH, 1855 CONSTITUTION AVENUE, P.O. BOX 100, WOODLYN, PA 19094	18	95,840
POTTSVILLE HSG AUTH, 410 LAUREL BLVD, POTTSVILLE, PA 17901	2	9,216

APPENDIX A.—SECTION 8 RENTAL ASSISTANCE PROGRAMS ANNOUNCEMENT OF AWARDS FOR FISCAL YEAR 2001—Continued

Housing agency and address	Units	Award
HSG AUTH OF COUNTY OF CHESTER, 30 W. BARNARD ST, WEST CHESTER, PA 19382	22	149,073
HSG AUTH OF GREENVILLE, P.O. BOX 10047, GREENVILLE, SC 29603	279	249,696
HSG AUTH OF AIKEN, P.O. BOX 889, AIKEN, SC 29802	60	223,426
HSG AUTH OF LAKE CITY, P.O. BOX 1017, LAKE CITY, SC 29560	42	188,856
HSG AUTH OF MEMPHIS, 700 ADAMS AVE, P.O. BOX 3664, MEMPHIS, TN 38103	216	1,150,848
CHATTANOOGA HSG AUTH, P.O. BOX 1486, CHATTANOOGA, TN 37402	203	930,552
METROPOLITAN DEVELOPMENT & HSG, 701 SOUTH SIXTH STREET, P.O. BOX 846, NASHVILLE, TN 37202	65	367,380
VIRGIN ISLANDS HSG AUTH, P.O. BOX 7668, ST. THOMAS, VI 00801	8	58,560
HSG AUTH OF CITY OF SEATTLE, 120 SIXTH AVENUE NORTH, SEATTLE, WA 98109	376	2,296,257
HSG AUTH OF CITY OF TACOMA, 902 SOUTH "L" STREET, TACOMA, WA 98405	400	2,508,587
WHEELING HSG AUTH, P.O. BOX 2089, WHEELING, WV 26003	75	219,916
Total for Public Housing Relocation/Replacement	9,807	54,987,426
SECTION 8 COUNSELING		
DALLAS HSG AUTH, 3939 N. HAMPTON RD, DALLAS, TX 75212	0	860,000
Total for Section 8 Counseling	0	860,000
TERMINATION/OPT-OUT/PROPERTY DISPOSITION FEES		
AK HSG FINANCE CORP, P.O. BOX 101020, ANCHORAGE, AK 99510	0	6,000
MOBILE HOUSING BOARD, P.O. BOX 1345, MOBILE, AL 36633	0	7,250
HSG AUTH OF HUNTSVILLE, P.O. BOX 486, HUNTSVILLE, AL 35804	0	16,250
HA DECATUR, P.O. BOX 878, DECATUR, AL 35602	0	34,250
HA OZARK, P.O. BOX 566, OZARK, AL 36361	0	12,000
HA EUFAULA, P.O. BOX 36, EUFAULA, AL 36027	0	10,250
HA PRICHARD, P.O. BOX 10307, PRICHARD, AL 36610	0	23,250
HA OF THE CITY OF LITTLE ROCK, 1000 WOLFE STREET, LITTLE ROCK, AR 72202	0	45,750
TUCSON HOUSING MANAGEMENT DIV, 1501 N. ORACLE ROAD, SUITE 115 P.O. BOX 27210, TUCSON, AZ 85726	0	23,750
WINSLOW HSG AUTH, 900 W. HENDERSON SQ, WINSLOW, AZ 86047	0	21,250
TEMPE HSG AUTH, 132 E. 6TH ST, SUITE 201 P.O. BOX 5002, TEMPE, AZ 85280	0	9,000
LOS ANGELES COUNTY HSG AUTH, 2 CORAL CIRCLE, MONTEREY PARK, CA 91755	0	21,500
CITY OF LOS ANGELES HSG AUTH, 2600 WILSHIRE BLVD., 3RD FLOOR, LOS ANGELES, CA 90057	0	24,500
SACRAMENTO HSG & REDEVELOPMENT, P.O. BOX 1834, SACRAMENTO, CA 95812	0	97,250
CITY OF FRESNO HSG AUTH, 1331 FULTON MALL, FRESNO, CA 93776	0	20,000
COUNTY OF CONTRA COSTA HSG AUTH, 3133 ESTUDILLO ST, P.O. BOX 2759, MARTINEZ, CA 94553	0	24,750
COUNTY OF STANISLAUS HSG AUTH, 1701 ROBERTSON ROAD, MODESTO, CA 95351	0	11,000
COUNTY OF BUTTE HSG AUTH, 580 VALLOMBROSA AVE, CHICO, CA 95926	0	5,000
YOLO COUNTY HSG AUTH, P.O. BOX 1867, WOODLAND, CA 95776	0	11,500
COUNTY OF SUTTER HSG AUTH, 448 GARDEN HIGHWAY, P.O. BOX 631, YUBA CITY, CA 95992	0	6,000
SAN JOSE HSG AUTH, 505 WEST JULIAN STREET, SAN JOSE, CA 95110	0	19,250
CITY OF FAIRFIELD HSG AUTH, 823–B JEFFERSON STREET, FAIRFIELD, CA 94533	0	5,750
SANTA CRUZ COUNTY HSG AUTH, 2160–41ST AVE, CAPITOLA, CA 95010	0	27,500
HSG AUTH OF CITY OF LIVERMORE, 3203 LEAHY WAY, LIVERMORE, CA 94550	0	11,750
COUNTY OF SONOMA HSG AUTH, 1440 GUERNEVILLE ROAD, SANTA ROSA, CA 95403	0	15,750
CITY OF SANTA ROSA HSG AUTH, 90 SANTA ROSA AVE, P.O. BOX 1806, SANTA ROSA, CA 95402	0	11,750
PICO RIVERA HSG AUTH, 6615 S. PASSONS BLVD, PICO RIVERA, CA 90660	0	1,500
CITY OF VACAVILLE HSG AUTH, 40 ELDERIDGE AVENUE, SUITES 1–5, VACAVILLE, CA 95687	0	7,000
DENVER HSG AUTH, 777 GRANT STREET, DENVER, CO 80203	0	10,500
PUEBLO HSG, 1414 NO. SANTA FE AVENUE, PUEBLO, CO 81003	0	1,500
LAKEWOOD HSG AUTH, 445 S. ALLISON PARKWAY, LAKEWOOD, CO 80226	0	15,000
GRAND JUNCTION HSG AUTH, 1011 NORTH TENTH STREET, GRAND JUNCTION, CO 81501	0	9,000
TORRINGTON HSG AUTH, 110 PROSPECT STREET, TORRINGTON, CT 06790	0	1,750
DC HSG AUTH, 1133 NORTH CAPITOL STREET NE, WASHINGTON, DC 20002	0	12,000
ORANGE CO SECTION 8, 525 EAST SOUTH STREET, ORLANDO, FL 32801	0	5,000
HSG AUTH OF SAVANNAH, P.O. BOX 1179, SAVANNAH, GA 31402	0	4,750
HSG AUTH ATLANTA GA, 739 WEST PEACHTREE STREET NE, ATLANTA, GA 30308	0	15,750
COLLEGE PARK HSG AUTH, 1908 WEST PRINCETON AVENUE, COLLEGE PARK, GA 30337	0	16,750
HSG AUTH OF DEKALB COUNTY, P.O. BOX 1627, DECATUR, GA 30031	0	10,000
HSG AUTH OF FULTON COUNTY, 10 PARK PLACE SE, SUITE 550, ATLANTA, GA 30303	0	250
DCA, 60 EXECUTIVE PARK SOUTH, NE STE 250, ATLANTA, GA 30329	0	11,000
CITY AND COUNTY OF HONOLULU, 715 SOUTH KING ST., SUITE 311, HONOLULU, HI 96813	0	7,000
CITY OF CEDAR RAPIDS HSG AUTH, 1211 SIXTH STREET SW, CEDAR RAPIDS, IA 52401	0	20,250
MUSCATINE HSG AUTH, CITY HALL, 215 SYCAMORE, MUSCATINE, IA 52761	0	11,500
GRINNELL LOW RENT HSG AUTH, 927 4TH AVENUE, GRINNELL, IA 50112	0	13,250
DUBUQUE DEPT OF HUMAN RIGHTS, 1805 CENTRAL AVENUE, DUBUQUE, IA 52001	0	3,000
CITY OF AMES DEPT. OF PLANNING, 515 CLARK AVENUE, AMES, IA 50010	0	8,500

APPENDIX A.—SECTION 8 RENTAL ASSISTANCE PROGRAMS ANNOUNCEMENT OF AWARDS FOR FISCAL YEAR 2001—Continued

Housing agency and address	Units	Award
OSKALOOSA MUNICIPAL PHA, 220 SOUTH MARKET, OSKALOOSA, IA 52577	0	10,750
CITY OF MASON HSG AUTH, 10–IST STREET M.W., MASON CITY, IA 50401	0	11,500
REGIONAL HSG AUTH—VOUCHER XI, 108 WEST 6TH ST P.O. BOX 663, CARROLL, IA 51401	0	1,250
NORTH IOWA REGIONAL HSG AUTH, 217 2ND STREET SW, MASON CITY, IA 50401	0	4,250
SOUTHEAST IOWA REGIONAL HSG AU, 214 N. 4TH P.O. BOX 397, BURLINGTON, IA 52601	0	5,750
UPPER EXPLORERLAND REG HSG AUTH, 134 W. GREENE ST., POSTVILLE, IA 52162	0	17,000
CENTRAL IOWA REG HSG AUTH, 950 OFFICE PARK ROAD, STE 321, WEST DESMOINES, IA 50265	0	26,500
MID IOWA REGIONAL HSG AUTH, 1814 CENTRAL AVENUE, FORT DODGE, IA 50501	0	9,500
SIOUXLAND REGIONAL HSG AUTH, 314 COMMERCE BLDG, SIOUX CITY, IA 51101	0	11,250
IDAHO HSG & FINANCE ASSN, 565 W MYRTLE STREET P.O. BOX 7899, BOISE, ID 83707	0	12,000
CHICAGO HSG AUTH, 626 WEST JACKSON BLVD, CHICAGO, IL 60661	0	137,000
PERORIA HSG AUTH, 100 SOUTH SHERIDAN ROAD, PEORIA, IL 61605	0	12,000
HSG AUTH OF COOK COUNTY, 310 SOUTH MICHIGAN AVENUE 15TH FLOOR, CHICAGO, IL 60604	0	13,500
HSG AUTH OF COUNTY OF LAKE, 33928 N ROUTE 45, GRAYSLAKE, IL 60030	0	5,000
FORT WAYNE HSG AUTH, P.O. BOX 13489, FORT WAYNE, IN 46869	0	23,250
HSG AUTH OF CITY OF EVANSVILLE, P.O. BOX 3605, 500 COURT STREET, EVANSVILLE, IN 47735	0	51,000
INDIANAPOLIS HSG AGENCY, 1919 N. MERIDIAN STREET, INDIANAPOLIS, IN 46202	0	66,250
ELKHART HSG AUTH, 1396 BENHAM AVE, ELKHART, IN 46516	0	18,500
ELWOOD HSG AUTH, 1602 SOUTH "A" STREET, ELWOOD, IN 46036	0	12,000
LOGANSPORT HSG AUTH, 417 NORTH STREET SUITE 102, LOGANSPORT, IN 46947	0	11,500
INDIANA DEPT OF HUMAN SERVICES, P.O. BOX 6116, INDIANAPOLIS, IN 46206	0	36,000
TOPEKA HSG AUTH, 2010 SE CALIFORNIA AVE, TOPEKA, KS 66607	0	6,500
DODGE CITY HSG AUTH, 407 EAST BEND, DODGE CITY, KS 67801	0	5,500
FORD COUNTY HSG AUTH, P.O. BOX 1636, DODGE CITY, KS 67801	0	5,000
RILEY COUNTY HSG AUTH, 437 HOUSTON, MANHATAN, KS 66502	0	4,750
JEFFERSON COUNTY HSG AUTH, 801 VINE STREET, LOUISVILLE, KY 40204	0	1,750
COMMUNITY DEVELOPMENT AGENCY, 201 WEST WALNUT STREET, DANVILLE, KY 40422	0	1,500
KENTUCKY HSG CORPORATION, 1231 LOUISVILLE ROAD, FRANKFORT, KY 40601	0	15,250
EAST BATON ROUGE PARISH HA, 4731 NORTH BLVD, BATON ROUGE, LA 70806	0	9,000
FRANKLIN CITY REG HSG AUTH, P.O. BOX 30 80 CANAL ST, TURNERS FALLS, MA 01376	0	2,000
HSG AUTH OF BALTIMORE CITY, 417 EAST FAYETTE STREET, BALTIMORE, MD 21201	0	9,750
MONTGOMERY CO HSG AUTH, 10400 DETRICK AVENUE, KENSINGTON, MD 20895	0	68,750
HAGERSTOWN HSG AUTH, 35 WEST BALTIMORE STREET, HAGERSTOWN, MD 21740	0	23,750
ANNE ARUNDEL COUNTY HSG AUTH, 7885 GORDON COURT P.O. BOX 0817, GLEN BURNIE, MD 21060	0	51,500
WASHINGTON COUNTY HSG AUTH, P.O. BOX 2944, HAGERSTOWN, MD 21741	0	5,500
BALTIMORE CO. HOUSING OFFICE, ONE INVESTMENT PLACE, SUITE P3, TOWSON, MD 21204	0	9,000
BATTLE CREEK HSG COMM., 250 CHAMPION STREET, BATTLE CREEK, MI 49017	0	14,500
LIVONIA HSG COMMISSION, 19300 PURLINGBROOK ROAD, LIVONIA, MI 48152	0	3,500
LANSING HSG COMMISSION, 310 NORTH SEYMOUR STREET, LANSING, MI 48933	0	7,000
KENT COUNTY HSG COMMISSION, 741 EAST BELTLINE AVE. NE, GRAND RAPIDS, MI 49525	0	8,500
MICHIGAN STATE HSG DEV AUTH, P.O. BOX 30044, LANSING, MI 48909	0	106,000
MICHIGAN STATE HSG DEV AUTH, P.O. BOX 30044, LANSING, MI 48909	0	11,750
WORTHINGTON HRA, 819 TENTH STREET, WORTHINGTON, MN 56187	0	4,000
DAKOTA COUNTY CDA, 2496 145TH ST. WEST, ROSEMOUNT, MN 55068	0	8,250
OLMSTED COUNTY HRA, 2122 CAMPUS DRIVE SE, ROCHESTER, MN 55904	0	7,750
METROPOLITAN COUNCIL HRA, MEARS PARK CENTRE 230 E. FIFTH STREET, ST. PAUL, MN 55101	0	3,500
OWATONNA HRA, 540 WEST HILLS CIRCLE, OWATONNA, MN 55060	0	1,000
HSG AUTH OF KANSAS CITY, 301 EASTARMOUR BLVD, KANSAS CITY, MO 64111	0	62,500
LEES SUMMIT HSG AUTH, 111 SOUTH GRAND, LEES SUMMIT, MO 64063	0	4,000
SPRINGFIELD HSG AUTH, 421 WEST MADISON, SPRINGFIELD, MO 65806	0	20,750
LINCOLN COUNTY PUB HSG AGENCY, 16 NORTH COURT, BOWLING GREEN, MO 63334	0	3,000
ST. FRANCOIS COUNTY PH AGENCY, P.O. BOX N, FLAT RIVER, MO 63601	0	8,500
MISS REGIONAL HSG AUTH VIII, P.O. BOX 2347, GULFPORT, MS 39505	0	9,750
MDOC, POB 200545 836 FRONT STREET, HELENA, MT 59620	0	2,750
RALEIGH HSG AUTH, P.O. BOX 28007, RALEIGH, NC 27611	0	11,000
HSG AUTH OF CHARLOTTE, P.O. BOX 36795, 1301 SOUTH BOULEVARD, CHARLOTTE, NC 28236	0	0
HSG AUGH OF WINSTON-SALEM, 901 CLEVELAND AVENUE, WINSTON-SALEM, NC 27101	0	750
GASTONIA HSG AUTH, 340 W LONG AVENUE P.O. BOX 2398, GASTONIA, NC 28053	0	20,250
NORTHWEST PIEDMONT CO OF GOV, 400 W 4TH STREET, SUITE 400, WINSTON-SALEM, NC 27101	0	2,500
MORTON COUNTY HSG AUTH, P.O. BOX 517, MANDAN, ND 58554	0	3,500
RAMSEY COUNTY HSG AUTH, BOX 691, DEVILS LAKE, ND 58301	0	10,000
BURLEIGH COUNTY HSG AUTH, 410 SOUTH 2ND STREET, BISMARCK, ND 58504	0	23,750
RANSOM COUNTY HSG AUTH, P.O. BOX 299, ASHLEY, ND 58413	0	3,750
NASHUA HSG AUTH, 101 MAJOR DRIVE, NASHUA, NH 03060	0	17,000
DOVER HSG AUTH, 62 WHITTIER STREET, DOVER, NH 03820	0	7,250
ROCHESTER HSG AUTH, WELLSWEEP ACRES, ROCHESTER, NH 03867	0	7,500
NEW JERSEY DCA, 101 SOUTH BROAD STREET, P.O. BOX 051, TRENTON, NJ 08625	0	500
CITY OF RENO HSG AUTH, 1525 EAST NINTH ST, RENO, NV 89512	0	4,500
COUNTY OF CLARK HSG AUTH, 5390 EAST FLAMINGO ROAD, LAS VEGAS, NV 89122	0	7,250
NEW YORK CITY HSG AUTH, 250 BROADWAY, NEW YORK, NY 10007	0	94,500

APPENDIX A.—SECTION 8 RENTAL ASSISTANCE PROGRAMS ANNOUNCEMENT OF AWARDS FOR FISCAL YEAR 2001—Continued

Housing agency and address	Units	Award
CITY OF NEW YORK DHPD, 100 GOLD STREET ROOM 5N, NEW YORK, NY 10038	0	92,750
NEW YORK STATE HSG FIN AGENCY, 25 BEAVER STREET, RM 674, NEW YORK, NY 10004	0	4,750
CUYAHOGA METRO HSG AUTH, 1441 WEST 25TH STREET, CLEVELAND, OH 44113	0	15,750
CINCINNATI METRO HSG AUTH, 16 WEST CENTRAL PARKWAY, CINCINNATI, OH 45210	0	246,500
DAYTON METRO HSG AUTH, 400 WAYNE AVE, POST OFFICE BOX 8750, DAYTON, OH 45401	0	12,250
LUCAS METRO HSG AUTH, P.O. BOX 477 435 NEBRASKA AVENUE, TOLEDO, OH 43602	0	2,750
ZANESVILLE METRO HSG AUTH, 407 PERSHING ROAD, ZANESVILLE, OH 43701	0	19,000
LORAIN METRO HSG AUTH, 1600 KANSAS AVENUE, LORAIN, OH 44052	0	25,250
STARK METRO HSG AUTH, 400 EAST TUSCARAWAS STREET, CANTON, OH 44702	0	11,750
PORTAGE METRO HSG AUTH, 2832 STATE ROUTE 59, RAVENNA, OH 44266	0	3,500
HAMILTON COUNTY PUB HSG AUTH, 138 EAST COURT STREET, ROOM 507, CINCINNATI, OH 45202	0	84,000
KNOX METRO HSG AUTH, 117 EAST HIGH STREET, 3RD FLOOR, MOUNT VERNON, OH 43050	0	23,750
FAIRFIELD METRO HSG AUTH, 1506 AMHERST PL, LANCASTER, OH 43130	0	9,750
OKLAHOMA CITY HSG AUTH, 1700 NE FOURTH STREET, OKLAHOMA CITY, OK 73117	0	31,000
HSG AUTH OF PORTLAND, 135 SW ASH STREET, PORTLAND, OR 97204	0	9,000
HSG AUTH OF MALHEUR COUNTY, 959 FORTNER ST, ONTARIO, OR 97914	0	1,250
PHILADELPHIA HSG AUTH, 12 SOUTH 23RD STREET, PHILADELPHIA, PA 19103	0	31,500
ALLEGHENY COUNTY HSG AUTH, 341–4TH AVENUE, PITTSBURGH, PA 15222	0	6,750
LEBANON COUNTY HSG AUTH, 303 CHESTNUT STREET, LEBANON, PA 17042	0	23,250
WOONSOCKET HSG AUTH, 679 SOCIAL ST, WOONSOCKET, RI 02895	0	58,500
CENTRAL FALLS HSG AUTH, 30 WASHINGTON ST, CENTRAL FALLS, RI 02863	0	42,250
PUERTO RICO HSG FINANCE CORP, CALL BOX 71361–GPO, SAN JUAN, PR 00936	0	90,000
HSG AUTH OF AIKEN, P.O. BOX 889, AIKEN, SC 29802	0	6,500
HSG AUTH OF GREENWOOD, P.O. BOX 973, GREENWOOD, SC 29648	0	4,500
CHATTANOOGA HSG AUTH, P.O. BOX 1486, CHATTANOOGA, TN 37402	0	28,500
HSG AUTH OF DICKSON, 333 MARTIN L. KING JR. BLVD., DICKSON, TN 37055	0	10,250
TENNESSEE HSG DEV AGENCY, 404 J. ROBERTSON PKWY, STE 1114, NASHVILLE-DAVIDSON, TN 37243	0	5,750
AUSTIN HSG AUTH, P.O. BOX 6159, AUSTIN, TX 78762	0	69,500
EL PASO HSG AUTH, 5300 E PAISONA, EL PASO, TX 79905	0	6,750
FORT WORTH HSG AUTH, P.O. BOX 430, 1201 E. 13TH ST., FORTH WORTH, TX 76101	0	17,000
WACO HSG AUTH, P.O. BOX 978, 1001 WASHINGTON, WACO, TX 76703	0	56,000
LAREDO HSG AUTH, 2000 SAN FRANCISCO AVENUE, LAREDO, TX 78040	0	25,500
TEXAS CITY HSG AUTH, 817 SECOND AVENUE NORTH, TEXAS CITY, TX 77590	0	7,500
PLANO HSG AUTH, 1111 AVENUE H, BLDG. A, PLANO, TX 75074	0	11,000
ARKANSAS PASS HSG AUTH, 254 N 13TH STREET, ARKANSAS PASS, TX 78336	0	10,000
ARLINGTON HSG AUTH, 501 W. SANFORD, SUITE 20, ARLINGTON, TX 76011	0	42,750
GRAND PRAIRIE HSG AUTH, 201 NW. 2ND ST, STE 150, GRAND PRAIRIE, TX 75053	0	40,750
GARLAND HSG AUTH, 210 CARVER STREET, STE 201B, GARLAND, TX 75046	0	3,000
MESQUITE HSG AUTH, 1515 N. GALLOWAY, P.O. BOX 850137, MESQUITE, TX 75185	0	7,500
WICHITA FALLS HAP, P.O. BOX 1431, 1300 SEVENTH ST., WICHITA FALLS, TX 76307	0	44,750
BRAZOS VALLEY DEV COUNCIL, PO DRAWER 4128, BRYAN, TX 77805	0	6,000
DAVIS COUNTY HSG AUTH, P.O. BOX 328, FARMINGTON, UT 84025	0	500
PORTSMOUTH REDEV AND HSG AUTH, P.O. BOX 1098, 339 HIGH STREET, PORTSMOUTH, VA 23705	0	31,000
FAIRFAX CO REDEV AND HSG AUTH, 3700 PENDER DRIVE, SUITE 300, FAIRFAX, VA 22030	0	7,250
PETERSBURG REDEV AND HSG AUTH, 128 S. SYCAMORE STREET, PETERSBURG, VA 23804	0	21,000
MARION REDEV AND HSG AUTH, 237 MILLER AVE, MARION, VA 24354	0	28,250
CITY OF VIRGINIA BEACH HSG AUTH, MUNICIPAL CENTER, VIRGINIA BEACH, VA 23456	0	28,500
VIRGINIA HSG DEV AUTH, 601 SOUTH BELVEDERE STREET, RICHMOND, VA 23220	0	65,500
HSG AUTH OF CITY OF SEATTLE, 120 SIXTH AVENUE NORTH, SEATTLE, WA 98109	0	15,500
HSG AUTH OF COUNTY OF KING, 600 ANDOVER PARK WEST, TUKWILA, WA 98188	0	15,250
HSG AUTH OF THURSTON COUNTY, 505 WEST FOURTH AVENUE, OLYMPIA, WA 98501	0	5,000
PIERCE COUNTY HSG AUTH, 603 S POLK, P.O. BOX 45410, TACOMA, WA 98445	0	6,250
HSG AUTH OF CITY OF SPOKANE, WEST 55 MISSION ST, SUITE 104, SPOKANE, WA 99201	0	2,500
HSG AUTH OF CITY OF MILWAUKEE, P.O. BOX 324, MILWAUKEE, WI 53201	0	77,000
WAUSAU CDA, 550 EAST THOMAS STREET, WAUSAU, WI 54403	0	14,500
WISCONSIN RAPIDS HSG AUTH, 2521 TENTH STREET SOUTH, WISCONSIN RAPIDS, WI 54494	0	6,250
DODGE COUNTY HSG AUTH, 419 E CENTER ST, JUNEAU, WI 53039	0	10,000
PORTAGE COUNTY HSG AUTH, 1100 CENTERPOINT DR, SUITE 201–B, STEVENS POINT, WI 54481	0	10,500
MARINETTE COUNTY HSG AUTH, 926 MAIN STREET, P.O. BOX 438, WAUSAUKEE, WI 54177	0	7,750
Total for Termination/Opt-out/Property Disposition Fees	0	3,525,000
TERMINATIONS/OPT-OUTS		
MOBILE HOUSING BOARD, P.O. BOX 134, MOBILE, AL 36633	30	133,560
DOTHAN HSG AUTH, P.O. BOX 1727, DOTHAN, AL 36302	0	15,695
HSG AUTH OF HUNTSVILLE, P.O. BOX 486, HUNTSVILLE, AL 35804	76	318,840
HSG AUTH OF DECATUR, P.O. BOX 878, DECATUR, AL 35602	136	535,296
HSG AUTH OF OZARK, P.O. BOX 566, OZARK, AL 36361	50	168,600
HSG AUTH OF PRICHARD, P.O. BOX 10307, PRICHARD, AL 36610	99	458,568

APPENDIX A.—SECTION 8 RENTAL ASSISTANCE PROGRAMS ANNOUNCEMENT OF AWARDS FOR FISCAL YEAR 2001—Continued

Housing agency and address	Units	Award
HSG AUTH OF CITY OF LITTLE ROCK, 1000 WOLFE STREET, LITTLE ROCK, AR 72202	86	985,560
TUCSON HSG MANAGEMENT DIV, 1501 N. ORACLE ROAD, SUITE 115, P.O. BOX 27210, TUCSON, AZ 85726	95	516,420
TEMPLE HSG AUTH, 132 E. 6TH ST, SUITE 201, P.O. BOX 5002, TEMPE, AZ 85280	36	206,928
LOS ANGELES COUNTY HSG AUTH, 2 CORAL CIRCLE, MONTEREY PARK, CA 91755	86	582,552
CITY OF LOS ANGELES HSG AUTH, 2600 WILSHIRE BLVD, 3RD FLOOR, LOS ANGELES, CA 90057	99	708,024
SACRAMENTO HSG & REDEV AUTH, P.O. BOX 1834, SACRAMENTO, CA 95812	125	642,288
CITY OF FRESNO HSG AUTH, 1331 FULTON MALL, FRESNO, CA 93776	87	422,820
SACRAMENTO HSG & REDEV AUTH, P.O. BOX 1834, SACRAMENTO, CA 95812	270	1,514,004
COUNTY OF CONTRA COSTA HSG AUTH, 3133 ESTUDILLO ST, P.O. BOX 2759, MARTINEZ, CA 94533	100	832,800
COUNTY OF STANISLAUS HSG AUTH, 1701 ROBERTSON ROAD, MODESTO, CA 95351	44	209,616
COUNTY OF BUTTE HSG AUTH, 580 VALLOMBROSA AVE, CHICO, CA 95926	20	78,480
YOLO COUNTY HSG AUTH, P.O. BOX 1867, WOODLAND, CA 95776	52	267,072
COUNTY OF SUTTER HSG AUTH, 448 GARDEN HIGHWAY, P.O. BOX 631, YUBA CITY, CA 95992	24	88,128
SAN JOSE HOUSING AUTHORITY, 505 WEST JULIAN STREET, SAN JOSE, CA 95110	79	857,940
CITY OF FAIRFIELD HSG AUTH, 823–B JEFFERSON STREET, FAIRFIELD, CA 94533	26	166,296
SANTA CRUZ COUNTY HSG AUTH, 2160-41ST AVE, CAPITOLA, CA 95010	110	1,036,200
H.A. OF THE CITY OF LIVERMORE, 3203 LEAHY WAY, LIVERMORE, CA 94550	125	407,772
COUNTY OF SONOMA HSG AUTH, 1440 GUERNEVILLE ROAD, SANTA ROSA, CA 95403	63	464,940
CITY OF SANTA ROSA HSG AUTH, 90 SANTA ROSA AVE., P.O. BOX 1806, SANTA ROSA, CA 95402	47	338,964
PICO RIVERA HSG AUTH, 6615 S. PASSONS BLVD, PICO RIVERA, CA 90660	6	48,672
CITY OF VACAVILLE HSG AUTH, 40 ELDRIDGE AVENUE, SUITES 1–5, VACAVILLE, CA 95687	28	171,696
DENVER HSG AUTH, 777 GRANT STREET, DENVER, CO 80203	42	331,632
PUEBLO HSG AUTH, 1414 NO. SANTA FE AVENUE, PUEBLO, CO 81003	6	31,752
LAKEWOOD HSG AUTH, 445 S. ALLISON PARKWAY, LAKEWOOD, CO 80226	60	395,280
GRAND JUNCTION HSG AUTH, 1011 NORTH TENTH STREET, GRAND JUNCTION, CO 81501	36	175,824
TORRINGTON HSG AUTH, 110 PROSPECT STREET, TORRINGTON, CT 06790	7	35,784
DC HSG AUTH, 1133 NORTH CAPITOL STREET NE, WASHINGTON, DC 20002	33	274,428
ORANGE CO SECTION 8, 525 EAST SOUTH STREET, ORLANDO, FL 32801	20	117,600
HSG AUTH OF SAVANNAH, P.O. BOX 1179, SAVANNAH, GA 31402	19	90,060
COLLEGE PARK HSG AUTH, 1908 WEST PRINCETON AVENUE, COLLEGE PARK, GA 30337	68	530,400
HSG AUTH OF DEKALB COUNTY, P.O. BOX 1627, DECATUR, GA 30031	40	264,480
HSG AUTH OF FULTON COUNTY, 10 PARK PLACE SE, SITE 550, ATLANTA, GA 30303	6	34,128
DCA, 60 EXECUTIVE PARK SOUTH, NE SUITE 250, ATLANTA, GA 30329	48	225,360
CITY AND COUNTY OF HONOLULU, 715 SOUTH KING ST., SUITE 311, HONOLULU, HI 96813	28	227,808
MUSCATINE HSG AUTH, CITY HALL, 215 SYCAMORE, MUSCATINE, IA 52761	48	150,912
GRINNELL LOW RENT HSG AUTH, 927 4TH AVENUE, GRINNELL, IA 50112	56	158,592
DUBUQUE DEPT OF HUMAN RIGHTS, 1805 CENTRAL AVENUE, DUBUQUE, IA 52001	12	40,320
CITY OF AMES DEPT. OF PLANNING, 515 CLARK AVENUE, AMES, IA 50010	43	178,020
OSKALOOSA MUNICIPAL PHA, 220 SOUTH MARKET, OSKALOSSA, IA 52577	44	117,744
CITY OF MASON HSG AUTH, 10–IST STREET NW., MASON CITY, IA 50401	48	140,544
REGIONAL HSG AUTH—VOUCHER XI, 108 WEST 6TH ST, P.O. BOX 663, CARROLL, IA 51401	20	54,960
NORTH IOWA REG HSG AUTH, 217 2ND STREET SW, MASON CITY, IA 50401	24	73,152
SOUTHEAST IOWA REG HSG AUTH, 214 N. 4TH P.O. BOX 397, BURLINGTON, IA 52601	24	72,576
UPPER EXPLORERLAND REG HSG AUTH, 134 W. GREENE ST, POSTVILLE, IA 52162	73	211,968
CENTRAL IOWA REG HSG AUTH, 950 OFFICE PARK ROAD, STE 321, WEST DES MOINES, IA 50265	108	395,280
MID IOWA REGIONAL HSG AUTH, 1814 CENTRAL AVENUE, FORT DODGE, IA 50501	42	112,896
SIOUXLAND REGIONAL HISG AUTH, 314 COMMERCE BLDG, SIOUX CITY, IA 51101	48	123,264
IDAHO HSG & FINANCE ASSN, 565 W MYRTLE STREET, P.O. BOX 7899, BOISE, ID 83707	48	204,096
CHICAGO HSG AUTH, 626 WEST JACKSON BLVD, CHICAGO, IL 60661	496	3,767,400
PEORIA HSG AUTH, 100 SOUTH SHERIDAN ROAD, PEORIA, IL 61605	48	240,192
HSG AUTH OF COOK COUNTY, 310 SOUTH MICHIGAN AVENUE, 15TH FL, CHICAGO, IL 60604	54	262,440
HSG AUTH OF COUNTY OF LAKE, 33928 N ROUTE 45, GRAYSLAKE, IL 60030	20	146,640
FORT WAYNE HSG AUTH, P.O. BOX 13489, FORT WAYNE, IN 46869	94	429,768
HSG AUTH OF CITY OF EVANSVILE, P.O. BOX 3605, 500 COURT STREET, EVANSVILLE, IN 47735	204	810,288
INDIANAPOLIS HOUSING AGENCY, 1919 N. MERIDIAN STREET, INDIANAPOLIS, IN 46202	373	1,591,536
ELKHART HSG AUTH, 1396 BENHAM AVE, ELKHART, IN 46516	74	258,289
ELWOOD HSG AUTH, 1602 SOUTH "A" STREET, ELWOOD, IN 46036	50	214,200
LOGANSPORT HSG AUTH, 417 NORTH STREET SUITE 102, LOGANSPORT, IN 46947	48	194,688
INDIANA DEPT OF HUMAN SERVICES, P.O. BOX 6116, INDIANAPOLIS, IN 46206	146	574,620
TOPEKA HSG AUTH, 2010 SE CALIFORNIA AVE, TOPEKA, KS 66607	24	107,712
DODGE CITY HSG AUTH, 407 EAST BEND, DODGE CITY, KS 67801	22	94,824
FORD COUNTY HSG AUTH, P.O. BOX 1636, DODGE CITY, KS 67801	20	64,080
RILEY COUNTY HSG AUTH, 437 HOUSTON, MANHATTAN, KS 66502	24	95,904,
JEFFERSON COUNTY HSG AUTH, 801 VINE STREET, LOUISVILLE, KY 40204	7	30,660
COMMUNITY DEVELOPMENT AGENCY, 201 WEST WALNUT STREET, DANVILLE, KY 40422	6	19,512
KENTUCKY HSG CORPORATION, 1231 LOUISVILLE ROAD, FRANKFROT, KY 40601	12	46,224
EAST BATON ROUGE PARISH HA, 4731 NORTH BLVD, BATON ROUGE, LA 70806	41	207,132
FRANKLIN CTY REG HSG AUTH, P.O. BOX 30 80 CANAL ST, TURNERS FALS, MA 01376	8	44,544
HSG AUTH OF BALTIMORE CITY, 417 EAST FAYETTE STREET, BALTIMORE, MD 21201	61	322,896

APPENDIX A.—SECTION 8 RENTAL ASSISTANCE PROGRAMS ANNOUNCEMENT OF AWARDS FOR FISCAL YEAR 2001—Continued

Housing agency and address	Units	Award
MONTGOMERY CO HSG AUTH, 10400 DETRICK AVENUE, KENSINGTON, MD 20895	279	2,556,396
HAGERSTOWN HSG AUTH, 35 WEST BALTIMORE STREET, HAGERSTOWN, MD 21740	95	381,900
ANNE ARUNDEL COUNTY HSG AUTH, 7885 GORDON COURT P.O. BOX 0817, GLEN BURNIE, MD 21060	206	1,278,024
WASHINGTON COUNTY HSG AUTH, P.O. BOX 2944, HAGERSTOWN, MD 21741	22	90,288
BALTIMORE CO. HSG OFFICE, ONE INVESTMENT PLACE SUITE P3, TOWSON, MD 21204	37	194,472
BATTLE CREEK HSG. COMM., 250 CHAMPION STREET, BATTLE CREEK, MI 49017	58	193,728
LIVONIA HSG COMMISSION, 19300 PURLINGBROOK ROAD, LIVONIA, MI 48152	16	105,600
LANSING HSG COMMISION, 310 NORTH SEYMOUR STREET, LANSING, MI 48933	28	134,400
ANN ARBOR HSG COMMISSION, 727 MILLER AVENUE, ANN ARBOR, MI 48103	0	0
KENT COUNTY HSG COMMISSION, 741 EAST BELTLINE AVE. NE, GRAND RAPIDS, MI 49525	34	199,920
MICHIGAN STATE HSG DEV AUTH, P.O. BOX 30044, LANSING, MI 48909	269	1,352,316
MICHIGAN STATE HSG DEV AUTH, P.O. BOX 30044, LANSING, MI 48909	41	163,344
DAKOTA COUNTY CDA, 2496 145TH ST. WEST, ROSEMOUNT, MN 55068	33	183,744
OLMSTED COUNTY HRA, 2122 CAMPUS DRIVE SE, ROCHESTER, MN 55904	32	138,240
OWATONNA HRA, 540 WEST HILLS CIRCLE, OWATONNA, MN 55060	4	14,160
HSG AUTH OF KANSAS CITY, 301 EASTARMOUR BLVD, KANSAS CITY, MN 64111	145	713,580
LEES SUMMIT HSG AUTH, 111 SOUTH GRAND, LEES SUMMIT, MO 64063	17	85,272
SPRINGFIELD HSG AUTH, 421 WEST MADISON, SPRINGFILED, MO 65806	2	6,072
LINCOLN COUNTY PUB HSG AGENCY, 16 NORTH COURT, BOWLING GREEN, MO 63334	12	51,120
ST. FRANCOIS COUNTY PH AGENCY, P.O. BOX N, FLAT RIVER, MO 63601	50	168,600
MISS REGIONAL HSG AUTH VIII, P.O. BOX 2347, GULFPORT, MS 39505	40	149,280
MDOC, POB 200545, 836 FRONT STREET, HELENA, MT 59620	12	47,520
RALEIGH HSG AUTH, P.O. BOX 28007, RALEIGH, NC 27611	50	291,600
HSG AUTH OF WINSTON-SALEM, 901 CLEVELAND AVENUE, WINSTON-SALEM, NC 27101	10	52,200
NORTHWEST PIEDMONT CO OF GOV, 400 W 4TH STREET, SUITE 400, WINSTON-SALEM, NC 27101	10	40,200
MORTON COUNTY HSG AUTH, P.O. BOX 517, MANDAN, ND 58554	24	84,672
BURLEIGH COUNTY HSG AUTH, 410 SOUTH 2ND STREET, BISMARCK, ND 58504	95	367,080
RANSOM COUNTY HSG AUTH, P.O. BOX 299, ASHLEY, ND 58413	15	28,440
NASHUA HSG AUTH, 101 MAJOR DRIVE, NASHUA, NH 03060	69	454,572
DOVER HSG AUTH, 62 WHITTIER STREET, DOVER, NH 03820	32	185,844
ROCHESTER HSG AUTH, WELLSWEEP ACRES, ROCHESTER, NH 03867	30	191,160
NEW JERSEY DCA, 101 SOUTH BROAD STREET, P.O. BOX 051, TRENTON, NJ 08625	4	30,912
CITY OF RENO HSG AUTH, 1525 EAST NINTH ST, RENO, NV 89512	18	96,336
COUNTY OF CLARK HSG AUTH, 5390 EAST FLAMINGO ROAD, LAS VEGAS, NV 89122	29	172,260
NEW YORK CITY HSG AUTH, 250 BROADWAY, NEW YORK, NY 10007	378	2,748,816
CITY OF NEW YORK DHPD, 100 GOLD STREET ROOM 5N, NEW YORK, NY 10038	371	2,372,916
NEW YORK STATE HSG FIN AGENCY, 25 BEAVER STREET, RM 674, NEW YORK, NY 10004	19	138,168
CUYAHOGA METRO HSG AUTH, 1441 WEST 25TH STREET, CLEVELAND, OH 44113	80	430,044
CINCINNATI METRO HSG AUTH, 16 WEST CENTRAL PARKWAY, CINCINNATI, OH 45210	1,089	5,057,316
DAYTON METROL HSG AUTH, 400 WAYNE AVE POST OFFICE BOX 8750, DAYTON, OH 45401	107	487,920
LUCAS METRO HSG AUTH, P.O. BOX 477 435 NEBRASKA AVENUE, TOLEDO, OH 43602	12	56,160
ZANESVILLE METRO HSG AUTH, 407 PERSHING ROAD, ZANESVILLE, OH 43701	76	260,832
LORAIN METRO HSG AUTH, 1600 KANSAS AVENUE, LORAIN, OH 44052	105	524,160
STARK METRO HSG AUTH, 400 EAST TUSCARAWAS STREET, CANTON, OH 44702	56	209,664
PORTAGE METRO HSG AUTH, 2832 STATE ROUTE 59, RAVENNA, OH 44266	14	70,896
HAMILTON COUNTY PUB HSG AUTH, 138 EAST COURT STREET, ROOM 507, CINCINNATI, OH 45202	361	1,847,268
KNOX METROPO HSG AUTH, 117 EAST HIGH STREET, 3RD FL, MOUNT VERNON, OH 43050	102	340,272
FAIRFIELD METRO HSG AUTH, 1506 AMHERST PL, LANCASTER, OH 43130	40	165,600
OKLAHOMA CITY HSG AUTH, 1700 N E FOURTH STREET, OKLAHOMA CITY, OK 73117	124	559,488
HSG AUTH OF PORTLAND, 135 SW ASH STREET, PORTLAND, OR 97204	39	224,640
HSG AUTH OF MALHEUR COUNTY, 959 FORTNER ST, ONTARIO, OR 97914	8	35,040
PHILADELPHIA HSG AUTH, 12 SOUTH 23RD STREET, PHILADELPHIA, PA 19103	126	901,152
ALLEGHENY COUNTY HSG AUTH, 341–4TH AVENUE, PITTSBURGH, PA 15222	32	138,240
LEBANON COUNTY HSG AUTH, 303 CHESTNUT STREET, LEBANON, PA 17042	93	369,396
WOONSOCKET HSG AUTH, 679 SOCIAL ST, WOONSOCKET, RI 02895	251	1,298,136
CENTRAL FALLS HSG AUTH, 30 WASHINGTON ST, CENTRAL FALLS, RI 02863	175	917,700
PUERTO RICO HSG FINANCE CO, CALL BOX 71361–GPO, SAN JUAN, PR 00936	382	1,829,604
HSG AUTH OF AIKEN, P.O. BOX 889, AIKEN, SC 29802	26	125,112
HSG AUTH OF GREENWOOD, P.O. BOX 973, GREENWOOD, SC 29648	18	55,296
HSG AUTH OF DICKSON, 333 MARTIN L. KING JR. BLVD., DICKSON, TN 37055	60	263,520
TENNESSEE HSG DEV AGENCY, 404 J. ROBERTSON PKWY, STE 1114, NASHVILLE-DAVIDSON, TN 37243	24	98,784
AUSTIN HSG AUTH, P.O. BOX 6159, AUSTIN, TX 78762	299	2,103,396
EL PASO HSG AUTH, 5300 E PAISONA, EL PASO, TX 79905	27	136,080
FORT WORTH HSG AUTH, P.O. BOX 430, 1201 E 13TH ST., FORT WORTH, TX 76101	68	419,861
LAREDO HSG AUTH, 2000 SAN FRANCISCO AVENUE, LAREDO, TX 78040	104	495,456
TEXAS CITY HSG AUTH, 817 SECOND AVENUE NORTH, TEXAS CITY, TX 77590	31	183,768
PLANO HSG AUTH, 1111 AVENUE H, BLDG. A, PLANO, TX 75074	44	287,232
ARANSAS PASS HSG AUTH, 254 N 13TH STREET, ARANSAS PASS, TX 78336	40	157,920
ARLINGTON HSG AUTH, 501 W. SANFORD, SUITE 20, ARLINGTON, TX 76011	204	1,216,656

APPENDIX A.—SECTION 8 RENTAL ASSISTANCE PROGRAMS ANNOUNCEMENT OF AWARDS FOR FISCAL YEAR 2001—Continued

Housing agency and address	Units	Award
GRAND PRAIRIE HSG AUTH, 201 NW, 2ND ST, STE 150, GRAND PRAIRIE, TX 75053	170	981,240
GARLAND HSG AUTH, 210 CARVER STREET, STE 201B, GARLAND, TX 75046	40	291,840
MESQUITE HSG AUTH, 1515 N. GALLOWAY, P.O. BOX 850137, MESQUITE, TX 75185	32	182,016
WICHITA FALLS HAP, P.O. BOX 1431 SEVENTH ST., WICHITA FALLS, TX 76307	179	685,212
BRAZOS VALLEY DEV COUNCIL, P.O. DRAWER 4128, BRYAN, TX 77805	50	230,400
DAVIS COUNTY HSG AUTH, P.O. BOX 328, FARMINGTON, UT 84025	10	51,720
PORTSMOUTH REDEV AND HSG AUTH, P.O. BOX 1098, 339 HIGH STREET, PORTSMOUTH, VA 23705	160	768,000
FAIRFAX CO REDEV AND HSG AUTH, 3700 PENDER DRIVE, SUITE 300, FAIRFAX, VA 22030	30	240,120
PETERSBURG REDEV AND HSG AUTH, 128 S. SYCAMORE STREET, PETERSBURG, VA 23804	125	730,500
MARION REDEV AND HSG AUTH, 237 MILLER AVE, MARION, VA 24354	113	492,228
CITY OF VIRGINIA BEACH HSG AUTH, MUNICIPAL CENTER, VIRGINIA BEACH, VA 23456	152	720,480
VIRGINIA HSG DEVELOPMENT AUTH, 601 SOUTH BELVIDERE STREET, RICHMOND, VA 23220	264	1,235,520
HSG AUTH OF CITY OF SEATTLE, 120 SIXTH AVENUE NORTH, SEATTLE, WA 98109	62	304,200
HSG AUTH OF COUNTY OF KING, 600 ANDOVER PARK WEST, TUKWILA, WA 98188	62	461,472
HSG AUTH OF THURSTON COUNTY, 505 WEST FOURTH AVENUE, OLYMPIA, WA 98501	21	105,588
PIERCE COUNTY HSG AUTH, 603 S POLK, P.O. BOX 45410, TACOMA, WA 98445	25	132,300
HSG AUTH OF CITY OF SPOKANE, WEST 55 MISSION ST, SUITE 104, SPOKANE, WA 99201	10	41,520
HSG AUTH OF CITY OF MILWAUKEE, P.O. BOX 324, MILWAUKEE, WI 53201	236	1,008,048
WAUSAU CDA, 550 EAST THOMAS STREET, WAUSAU, WI 54403	58	153,816
WISCONSIN RAPIDS HSG AUTH, 2521 TENTH STREET SOUTH, WISCONSIN RAPIDS, WI 54494	10	27,480
DODGE COUNTY HSG AUTH, 419 E CENTER ST, JUNEAU, WI 53039	40	104,160
PORTAGE COUNTY HSG AUTH, 1100 CENTERPOINT DR, SUITE 201–B, STEVENS POINT, WI 54481	42	124,488
Total for Terminations/Opt-outs	13,576	72,272,249
Grand total	36,500	215,558,491

[FR Doc. 02–2179 Filed 1–29–02; 8:45 am]
BILLING CODE 4210–33–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

Endangered Species

The public is invited to comment on the following application(s) for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address below) and must be received within 30 days of the date of this notice.

Applicant: Zoological Society of San Diego, Escondido, CA, PRT–042686.

The applicant requests a permit to acquire through interstate commerce a male captive born Andean condor (*Vultur gryphus*) from Jacksonville Zoo, Jacksonville, Florida, and to export said animal and one captive born female Andean condor to Mountain View Farms, British Columbia, Canada, for the purpose of enhancement of the propagation of the species.

The U.S. Fish and Wildlife Service has information collection approval from OMB through March 31, 2004, OMB Control Number 1018–0093. Federal Agencies may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a current valid OMB control number.

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203, telephone 703/358–2104 or fax 703/358–2281.

Dated: January 18, 2002.

Monica Farris,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 02–2187 Filed 1–29–02; 8:45 am]
BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of a Permit Application (Kelsay) for Incidental Take of the Houston Toad

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: Douglas and Debra Kelsay (Applicants) have applied for an incidental take permit (TE–051535–0) pursuant to Section 10(a) of the Endangered Species Act (Act). The requested permit would authorize the incidental take of the endangered Houston toad. The proposed take would occur as a result of the construction and occupation of a single-family residence on approximately 0.5 acre of the 22.004-acre property on Hoffman Road, Bastrop County, Texas.

DATES: Written comments on the application should be received on or before March 1, 2002.

ADDRESSES: Persons wishing to review the application may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Room 4102, Albuquerque, New Mexico 87103. Persons wishing to review the EA/HCP may obtain a copy by contacting Clayton Napier, U.S. Fish and Wildlife Service, 10711 Burnet

Road, Suite 200, Austin, Texas 78758 (512/490–0057). Documents will be available for public inspection by written request, by appointment only, during normal business hours (8 to 4:30) at the U.S. Fish and Wildlife Service, Austin, Texas. Written data or comments concerning the application and EA/HCP should be submitted to the Supervisor, U.S. Fish and Wildlife Service, Austin, Texas, at the above address. Please refer to permit number TE–051535–0 when submitting comments.

FOR FURTHER INFORMATION CONTACT: Clayton Napier at the above U.S. Fish and Wildlife Service, Austin Office.

SUPPLEMENTARY INFORMATION: Section 9 of the Act prohibits the ''taking'' of endangered species such as the Houston toad. However, the Fish and Wildlife Service (Service), under limited circumstances, may issue permits to take endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

The Service has prepared the Environmental Assessment/Habitat Conservation Plan (EA/HCP) for the incidental take application. A determination of jeopardy to the species or a Finding of No Significant Impact (FONSI) will not be made until at least 30 days from the date of publication of this notice. This notice is provided pursuant to Section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

Applicants: Douglas and Debra Kelsay plan to construct a single-family residence, within 5 years, on approximately 0.5 acre of the 22.004-acre property on Hoffman Road, Bastrop County, Texas. This action will eliminate 0.5 acre or less of Houston toad habitat and result in indirect impacts within the lot. The Applicants propose to compensate for this incidental take of the Houston toad by providing $2,000.00 to the Houston Toad Conservation Fund at the National Fish and Wildlife Foundation for the specific purpose of land acquisition and management within Houston toad habitat.

Stuart Leon,

Acting Regional Director, Region 2.

[FR Doc. 02–2196 Filed 1–29–02; 8:45 am]

BILLING CODE 4510–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of a Permit Application (Herden) for Incidental Take of the Houston Toad

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: Jerry Herden (Applicant) has applied for an incidental take permit (TE–051536–0) pursuant to section 10(a) of the Endangered Species Act (Act). The requested permit would authorize the incidental take of the endangered Houston toad. The proposed take would occur as a result of the construction and occupation of a single-family residence on approximately 0.5 acres of a 15.031-acre property on Gotier Trace Road, Bastrop County, Texas.

DATES: Written comments on the application should be received on or before March 1, 2002.

ADDRESSES: Persons wishing to review the application may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Room 4102, Albuquerque, New Mexico 87103. Persons wishing to review the EA/HCP may obtain a copy by contacting Clayton Napier, U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, Texas 78758 (512/490–0057). Documents will be available for public inspection by written request, by appointment only, during normal business hours (8 to 4:30) at the U.S. Fish and Wildlife Service, Austin, Texas. Written data or comments concerning the application and EA/HCP should be submitted to the Supervisor, U.S. Fish and Wildlife Service, Austin, Texas, at the above address. Please refer to permit number TE–051536–0 when submitting comments.

FOR FURTHER INFORMATION CONTACT: Clayton Napier at the above U.S. Fish and Wildlife Service, Austin Office.

SUPPLEMENTARY INFORMATION: Section 9 of the Act prohibits the ''taking'' of endangered species such as the Houston toad. However, the Fish and Wildlife Service (Service), under limited circumstances, may issue permits to take endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

An Environmental Assessment/Habitat Conservation Plan (EA/HCP) for the incidental take application has been prepared. A determination of jeopardy to the species or a Finding of No Significant Impact (FONSI) will not be made until at least 30 days from the date of publication of this notice. This notice is provided pursuant to section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

Applicant: Jerry Herden plans to construct a single-family residence, within 5 years, on approximately 0.5 acre of a 15.031-acre property on Gotier Trace Road, Bastrop County, Texas. This action will eliminate 0.5 acre or less of Houston toad habitat and result in indirect impacts within the lot. The Applicant proposes to compensate for this incidental take of the Houston toad by providing $3,000.00 to the Houston Toad Conservation Fund at the National Fish and Wildlife Foundation for the specific purpose of land acquisition and management within Houston toad habitat.

Stuart Leon,

Acting Regional Director, Region 2.

[FR Doc. 02–2197 Filed 1–29–02; 8:45 am]

BILLING CODE 4510–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of a Permit Application (Henneke) for Incidental Take of the Houston Toad

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: John Henneke (Applicant) has applied for an incidental take permit (TE–051538–0) pursuant to section 10(a) of the Endangered Species Act (Act). The requested permit would authorize the incidental take of the endangered Houston toad. The proposed take would occur as a result of the construction and occupation of a single-family residence on approximately 0.5 acres of a 77.44-acre property on Thames Lane, Bastrop County, Texas.

DATES: Written comments on the application should be received on or before March 7, 2002.

ADDRESSES: Persons wishing to review the application may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Room 4102, Albuquerque, New Mexico 87103. Persons wishing to review the EA/HCP may obtain a copy by contacting Clayton Napier, U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, Texas 78758 (512/490–0057). Documents will be available for public inspection by written request, by appointment only,

during normal business hours (8 to 4:30) at the U.S. Fish and Wildlife Service, Austin, Texas. Written data or comments concerning the application and EA/HCP should be submitted to the Supervisor, U.S. Fish and Wildlife Service, Austin, Texas, at the above address. Please refer to permit number TE–051538–0 when submitting comments.

FOR FURTHER INFORMATION CONTACT: Clayton Napier at the above U.S. Fish and Wildlife Service, Austin Office.

SUPPLEMENTARY INFORMATION: Section 9 of the Act prohibits the ''taking'' of endangered species such as the Houston toad. However, the Fish and Wildlife Service (Service), under limited circumstances, may issue permits to take endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

An Environmental Assessment/Habitat Conservation Plan (EA/HCP) for the incidental take application has been prepared. A determination of jeopardy to the species or a Finding of No Significant Impact (FONSI) will not be made until at least 30 days from the date of publication of this notice. This notice is provided pursuant to section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

Applicant: John Henneke plans to construct a single-family residence, within 5 years, on approximately 0.5 acres of a 77.44-acre property on Thames Lane, Bastrop County, Texas. This action will eliminate 0.5 acre or less of Houston toad habitat and result in indirect impacts within the lot. The Applicant proposes to compensate for this incidental take of the Houston toad by providing $2,000.00 to the Houston Toad Conservation Fund at the National Fish and Wildlife Foundation for the specific purpose of land acquisition and management within Houston toad habitat.

Stuart Leon,

Acting Regional Director, Region 2.

[FR Doc. 02–2199 Filed 1–29–02; 8:45 am]

BILLING CODE 4510–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of a Permit Application (Bigsby) for Incidental Take of the Houston Toad

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: Robert and Terri Bigsby (Applicants) have applied for an incidental take permit (TE–051530–0) pursuant to section 10(a) of the Endangered Species Act (Act). The requested permit would authorize the incidental take of the endangered Houston toad. The proposed take would occur as a result of the construction and occupation of two single-family residences on separate 0.5 acre homesites on a 5.7-acre property on Hoffman Road, Bastrop County, Texas.

DATES: Written comments on the application should be received on or before March 7, 2002.

ADDRESSES: Persons wishing to review the application may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Room 4102, Albuquerque, New Mexico 87103. Persons wishing to review the EA/HCP may obtain a copy by contacting Clayton Napier, U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, Texas 78758 (512/490–0057). Documents will be available for public inspection by written request, by appointment only, during normal business hours (8 to 4:30) at the U.S. Fish and Wildlife Service, Austin, Texas. Written data or comments concerning the application and EA/HCP should be submitted to the Supervisor, U.S. Fish and Wildlife Service, Austin, Texas, at the above address. Please refer to permit number TE–051530–0 when submitting comments.

FOR FURTHER INFORMATION CONTACT: Clayton Napier at the above U.S. Fish and Wildlife Service, Austin Office.

SUPPLEMENTARY INFORMATION: Section 9 of the Act prohibits the ''taking'' of endangered species such as the Houston toad. However, the Fish and Wildlife Service (Service), under limited circumstances, may issue permits to take endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

The Service has prepared the Environmental Assessment/Habitat Conservation Plan (EA/HCP) for the incidental take application. A determination of jeopardy to the species or a Finding of No Significant Impact (FONSI) will not be made until at least 30 days from the date of publication of this notice. This notice is provided pursuant to section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

Applicants: Robert and Terri Bigsby plan to construct two single-family residences, within 5 years, on separate 0.5 acre homesites on a 5.7-acre property on Hoffman Road, Bastrop County, Texas. This action will eliminate 1.0 acre or less of Houston toad habitat and result in indirect impacts within the lot. The Applicants propose to compensate for this incidental take of the Houston toad by providing $4,000.00 to the Houston Toad Conservation Fund at the National Fish and Wildlife Foundation for the specific purpose of land acquisition and management within Houston toad habitat.

Stuart Leon,

Acting Regional Director, Region 2.

[FR Doc. 02–2200 Filed 1–29–02; 8:45 am]

BILLING CODE 4510–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–050–02–5101–ER–F323; NVN66472, NVN73726, N–66150, N–61191]

Availability for the Table Mountain Wind Generating Facility

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability to (1) announce the 60 day public review period for the Table Mountain Wind Generating Facility (WGF) Draft Environmental Impact Statement (DEIS); (2) announce the locations, dates, and times of the scheduled public meetings for formal public comments; and (3) announce locations where reading copies of the DEIS will be made available.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, a DEIS has been prepared by the Bureau of Land Management (BLM), Las Vegas Field Office for the Table Mountain WGF. The DEIS was prepared to analyze the impacts of issuing rights-of-way for arrays of wind turbines and ancillary facilities located on public lands administered by the BLM.

DATES: The DEIS will be made available to the public on February 1, 2002. Copies of the DEIS will be mailed to individuals, agencies, or companies who previously requested copies.

Written comments on the DEIS must be postmarked or otherwise delivered by 4:30 p.m. 60 days following the date the Environmental Protection Agency (EPA) publishes the Notice of Availability and filing of the DEIS in the **Federal Register**. The EPA Notice of Availability is expected to be published on or about February 1, 2002. Written

comments on the document should be addressed to Mark Morse, Field Manager, Bureau of Land Management, Las Vegas Field Office, 4701 Torrey Pines Drive, Las Vegas, NV 89130–2301. Oral and/or written comments may also be presented at three scheduled public meetings to be held at the following locations:

- Tuesday, February 26, 2002 from 7 p.m. to 9 p.m.; Community Center, West Quartz Avenue, Sandy Valley, Nevada
- Wednesday, February 27, 2002 at 7 p.m. to 9 p.m.; Community Center, 375 West San Pedro Avenue, Goodspirngs, Nevada
- Thursday, February 28, 2002 at 7 p.m. to 9 p.m.; Clark County Government Center, Room QDC #3, 500 Grand Central Parkway, Las Vegas, Nevada

ADDRESSES: Public reading copies of the DEIS will be available for reading at public libraries located at the following addresses:

- 650 West Quartz Avenue, Sandy Valley, NV
- 365 West San Pedro, Goodsprings, NV
- 4280 South Jones Blvd., Las Vegas, NV

A limited number of copies of the document will be available at the following BLM offices:

- Bureau of Land Management, Nevada State Office, 1340 Financial Blvd., Reno, NV
- Bureau of Land Management, Las Vegas Field Office, 4701 Torrey Pines Drive, Las Vegas, NV

Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review or from disclosure under the Freedom of Information Act, you must state this definitively at the beginning of your written comments. Such requests will be honored to the extent allowed by law. All submissions from organizations, businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses will be available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Jerry Crockford, Project Manager, Bureau of Land Management, Las Vegas Field Office, 4701 Torrey Pines Drive, Las Vegas, NV 89130–2301. Bureau of Land Management, Farmington Field Office, 1235 La Plata Highway, Suite A, Farmington, NM 87401; telephone (505) 599–6333, cellular telephone (505) 486–4299, or electronic mail *jcrockfo@nm.blm.gov.*

SUPPLEMENTARY INFORMATION: The DEIS addresses alternatives to resolve the following major issues (revealed to date): Air quality, increased recreation, mining claims, birds and bats, big horn sheep, threatened or endangered species, cultural resources and traditional cultural properties, transportation, visual resources, noise, and socioeconomics.

The proposed action and alternatives can be summarized as: Proposed Action—Construct arrays containing a total of 153 wind turbine generators (WTGs) consisting of a combination of the two sizes of turbines identified in Alternatives A and B, and ancillary facilities; Alternative A—Construct arrays containing a total of 187 NEG Micon Model 900/52 WTGs and ancillary facilities; Alternative B—Construct arrays containing a total of 135 NEG Micon Model 1500 C WTGs and ancillary facilities; and Alternative C—No Action.

The proposed action is to construct, operate, and maintain a WGF producing 205-megawatts (MWs) and ancillary facilities on approximately 300 acres of public land within the Table Mountain WGF study area. The fully constructed WGF would consist of arrays containing a total of 153 WTGs. The WTGs installed would be a combination of the NEG Micon Model 900/52 (each producing 800 kilowatts) and NEG Micon 1500 C (each producing 1.5 MWs) turbines. Ancillary facilities consist of access roads, underground and overhead 34.5 kilovolt (kV) distribution lines, 230 kV electric transmission lines, an electric sub-station, a control building, and various temporary use areas. The WGF would operate 24 hours per day, 365 days a year, and produce in excess of 460 million kilowatt-hours annually. The anticipated life of the facility would be longer than 20 years. The rights-of way would be granted for 20 years with the right to renew.

Alternative A would essentially be the same as the Proposed Action but would consist of arrays containing a total of 187 NEG Micon Model 900/52 WTGs and ancillary facilities. Under Alternative A, there would be 22 percent more towers, turbines, and transformers. This would cause an increase in total of land disturbance as compared to the Proposed Action.

Alternative B would essentially be the same as the Proposed Action but would consist of arrays containing a total of 135 NEG Micon Model 1500 C WTGs and ancillary facilities. Under Alternative B, there would be 12 percent fewer towers, turbines, and transformers. This would cause a reduction in total acres of land disturbance as compared to the Proposed Action.

Under the No Action Alternative, BLM would not issue right-of-way grants for the WGF and ancillary facilities. The WTGs, access roads, underground and overhead 34.5 kV distribution lines, 230 kV electric transmission lines, electric sub-station, control building, and various temporary use areas would not be constructed/utilized. Wind resources at Table Mountain would remain undeveloped.

Public participation is occurring throughout the processing of this project. A Notice of Intent was filed in the **Federal Register** on December 29, 2000. Two rounds of public meetings consisting of three meetings each were held. Comments presented throughout the process have been considered.

Dated: January 24, 2002.

Charles F. Delcamp,

Acting Field Manager.

[FR Doc. 02–2195 Filed 1–29–02; 8:45 am]

BILLING CODE 4310–HC–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–267 (Review Remand) and 731–TA–304 (Review Remand)]

Top-of-the-Stove Stainless Steel Cooking Ware From Korea

Determinations of Remand

On March 17, 2000, the Commission determined that the revocation of the countervailing and antidumping duty orders on top-of-the-stove stainless steel cooking ware from Korea would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[1] Those determinations were appealed to the U.S. Court of International Trade.

On October 1, 2001, the Court affirmed the Commission's ''domestic like product'' determination and remanded the Commission's decision to cumulate subject imports from Korea and Taiwan.[2] On remand, the Commission again determines that revocation of the countervailing and antidumping duty orders on top-of-the-stove stainless steel cooking ware from

[1] Porcelain-on-Steel Cooking Ware from China, Mexico, and Taiwan, and Top-of-the-Stove Stainless Steel Cooking Ware from Korea and Taiwan, Invs. Nos. 701–TA–267and 268 (Review) and Invs. Nos. 731–TA–297–299, 304 and 305 (Review), USITC Pub. 3286 (March 2000).

[2] Chefline Corp. et al. v. United States, Court No. 00–05–00212, Slip Op. 01–118 (September 26, 2001).

Korea would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[3]

The Commission transmitted its remand determinations to U.S. Court of International Trade on January 25, 2002. The views of the Commission are contained in USITC Publication 3485 (January 2002), entitled Top-of-the-Stove Stainless Steel Cooking Ware from Korea (Views on Remand): Investigations Nos. 701–TA–267 and 731–TA–304 (Review) (Remand).

By order of the Commission.
Issued: January 24, 2002.

Marilyn R. Abbott,

Acting Secretary.

[FR Doc. 02–2185 Filed 1–29–02; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

January 15, 2002.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Marlene Howze at ((202) 219–8904 or Email *Howze-Marlene@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ESA, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register.**

The OMB is particularly interested in comments which:

* Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.

* Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

* Enhance the quality, utility, and clarity of the information to be collected; and minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Type of Review: Revision of a currently approved collection.

Agency: Employment Standards Administration (ESA).

Title: Report of Ventilatory Study (CM–907), Roentgenographic (CM–933), Roentgenographic Quality Rereading (CM–933b), Medical History and Examination for Coal Mine Workers' Pneumoconiosis (CM–988), Report of Arterial Blood Gas Study (CM–1159) and Report of Ventilatory Study (CM–2907).

OMB Number: 1215–0090.

Affected Public: Business or other for-profit and Not-for-profit institutions.

Frequency: On Occasion.

Responses and Estimated Burdens:

Form	Number of respondents	Annual responses	Per response (in minutes)	Total burden hours
CM–907	100	100	20	33
CM–933	6,000	6,000	5	500
CM–933b	5,000	5,000	5	417
CM–988	5,000	5,000	30	2,500
CM–1159	5,000	5,000	15	1,250
CM–2907	4,900	4,900	20	1,634
Totals	26,000	26,000	.....	6,334

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $7,418.25.

Description: 20 CFR 718 specifies that certain information relative to the medical condition of a claimant who is alleging the presence of pneumoconiosis be obtained as a routine function of the claim adjudication process. The medical specifications in the regulations have been formatted in a variety of forms to promote efficiency and accuracy in gathering the required data. These forms were designed to meet the need to establish medical evidence. If this information were not gathered, determinations on total disability could not be made.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 02–2234 Filed 1–29–02; 8:45 am]

BILLING CODE 4510–CK–M

LIBRARY OF CONGRESS

Copyright Office

[Docket No. 2002–1 CARP DTRA3]

Digital Performance Right in Sound Recordings and Ephemeral Recordings

AGENCY: Copyright Office, Library of Congress.

ACTION: Initiation of voluntary negotiation period.

SUMMARY: The Copyright Office is announcing the initiation of the voluntary negotiation period for determining reasonable rates and terms for two compulsory licenses, which in one case, allows public performances of sound recordings by means of eligible nonsubscription transmissions, and in the second instance, allows the making of an ephemeral phonorecord of a sound recording in furtherance of making a permitted public performance of the sound recording.

EFFECTIVE DATE: The voluntary negotiation period begins on January 30, 2002.

[3] Vice Chairman Deanna Tanner Okun and Commissioner Lynn M. Bragg dissenting.

ADDRESSES: Copies of voluntary license agreements and petitions, if sent by mail, should be addressed to: Copyright Arbitration Royalty Panel (CARP), P.O. Box 70977, Southwest Station, Washington, DC 20024. If hand delivered, they should be brought to: Office of the General Counsel, James Madison Memorial Building, Room LM–403, First and Independence Avenue, SE, Washington, DC 20559–6000.

FOR FURTHER INFORMATION CONTACT: David O. Carson, General Counsel, or Tanya M. Sandros, Senior Attorney, Copyright Arbitration Royalty Panel, P.O. Box 70977, Southwest Station, Washington, DC 20024. Telephone: (202) 707–8380. Telefax: (202) 252–3423.

SUPPLEMENTARY INFORMATION: In 1995, Congress enacted the Digital Performance Right in Sound Recordings Act of 1995 (''DPRA''), Pub. L. 104–39, which created an exclusive right for copyright owners of sound recordings, subject to certain limitations, to perform publicly the sound recordings by means of certain digital audio transmissions. Among the limitations on the performance right was the creation of a new compulsory license for nonexempt, noninteractive, digital subscription transmissions. 17 U.S.C. 114(f).

The scope of this license was expanded in 1998 upon passage of the Digital Millennium Copyright Act of 1998 (''DMCA'' or ''Act''), Pub. L. 105–304, in order to allow a nonexempt eligible nonsubscription transmission and a nonexempt transmission by a preexisting satellite digital audio radio service to perform publicly a sound recording in accordance with the terms and rates of the statutory license. 17 U.S.C. 114(a).

An ''eligible nonsubscription transmission'' is a noninteractive, digital audio transmission which, as the name implies, does not require a subscription for receiving the transmission. The transmission must also be made as part of a service that provides audio programming consisting in whole or in part of performances of sound recordings the purpose of which is to provide audio or entertainment programming, but not to sell, advertise, or promote particular goods or services. A ''preexisting satellite digital audio radio service'' is a subscription digital audio radio service that received a satellite digital audio radio service license issued by the Federal Communications Commission on or before July 31, 1998. *See* 17 U.S.C. 114(j)(6) and (10).

In addition to expanding the current § 114 license, the DMCA also created a new statutory license for the making of an ''ephemeral recording'' of a sound recording by certain transmitting organizations. 17 U.S.C. 112(e). The new statutory license allows entities that transmit performances of sound recordings to business establishments, pursuant to the limitations set forth in Section 114(d)(1)(C)(iv), to make an ephemeral recording of a sound recording for purposes of a later transmission. The new license also provides a means by which a transmitting entity with a statutory license under Section 114(f) can make more than the one phonorecord permitted by the exemption specified in Section 112(a). 17 U.S.C. 112(e).

Determination of Reasonable Terms and Rates

The statutory scheme for establishing reasonable terms and rates is the same for both licenses. The terms and rates for the two new statutory licenses may be determined by voluntary agreement among the affected parties, or if necessary, through compulsory arbitration conducted pursuant to Chapter 8 of the Copyright Act.

If the affected parties are able to negotiate voluntary agreements, then it may not be necessary for these parties to participate in an arbitration proceeding. *See* 17 U.S.C. 112(e)(5) and 114(f)(3). Similarly, if the parties negotiate an industry-wide agreement, an arbitration may not be needed. In the latter case, the Librarian of Congress will follow current rate regulation procedures and notify the public of the proposed agreement in a notice and comment proceeding. If no party with a substantial interest and an intent to participate in an arbitration proceeding files a comment opposing the negotiated rates and terms, the Librarian will adopt the proposed terms and rates without convening a copyright arbitration royalty panel. 37 CFR 251.63(b). If, however, no industry-wide agreement is reached, or only certain parties negotiate license agreements, then those copyright owners and users relying upon one or both of the statutory licenses shall be bound by the terms and rates established through the arbitration process.

Arbitration proceedings cannot be initiated unless a party files a petition for ratemaking with the Librarian of Congress during the 60-day period, beginning July 1, 2002. 17 U.S.C. 112(e)(6) and 114(f)(2)(C)(ii)(II).

On November 27, 1998, the Copyright Office initiated a six-month voluntary negotiation period in accordance with Section 112(e)(3) and 114(f)(2)(A) for the purpose of establishing rates and terms for these licenses for the period beginning on the effective date of the DMCA and ending on December 31, 2000. 63 FR 65555 (November 27, 1998). Parties to these negotiations however, were unable to reach agreement on the rates and terms and, in accordance with Sections 112(e)(4) and 114(f)(1)(B), the Copyright Office initiated arbitration proceedings to determine the rates and terms for use of these licenses through December 31, 2000. 64 FR 52107 (September 27, 1999).

Subsequently, the Copyright Office initiated another voluntary negotiation period in January 2000 for the purpose of setting rates and terms for use of these licenses by services for the period between January 1, 2001, and December 31, 2002. 66 FR 2194 (January 13, 2000). Because the panel in both proceedings was to set rates and terms for the same licenses, albeit for different time periods, the Office consolidated the 1998–2000 proceeding with the 2001–2002 proceeding. *See* Order, Docket Nos.99–6 CARP DTRA and 2000–3 CARP DTRA2 (December 4, 2000). This consolidated proceeding is still ongoing and the CARP is scheduled to submit its report on February 20, 2002. *See* Order, Docket No. 2000–9 CARP DTRA1&2 (November 9, 2001).

Initiation of the Next Round of Voluntary Negotiations

Unless the schedule has been readjusted by the parties in a previous rate adjustment proceeding, Sections 112(e)(7) and 114(f)(2)(C)(i)(II) of the Copyright Act require the publication of a notice in January 2002, and at 2-year intervals thereafter, initiating the voluntary negotiation periods for determining reasonable rates and terms for the statutory licenses permitting the public performance of a sound recording by means of certain digital transmissions and the making of an ephemeral recording in accordance with Section 112(e). Parties who negotiate a voluntary license agreement during this period are encouraged to submit two copies of the agreement to the Copyright Office at the above-listed address within 30 days of its execution.

The publication of this notice fulfills the requirement. The negotiation period shall begin on January 30, 2002, and end on June 30, 2002.

Petitions

In the absence of a license agreement negotiated under 17 U.S.C. 112(e)(4) or 114(f)(2)(A), those copyright owners of sound recordings and entities availing themselves of the statutory licenses are subject to arbitration upon the filing of a petition by a party with a significant

interest in establishing reasonable terms and rates for the statutory licenses. Petitions must be filed in accordance with 17 U.S.C. 112(e)(7), 114(f)(2)(C)(ii)(II), and 803(a)(1) and may be filed any time during the sixty-day period beginning on July 1, 2002. *See also,* 37 CFR 251.61. Parties should submit petitions to the Copyright Office at the address listed in this notice. The petitioner must deliver an original and five copies to the Office.

Dated: January 24, 2002.

David O. Carson,

General Counsel.

[FR Doc. 02–2242 Filed 1–29–02; 8:45 am]

BILLING CODE 1410–33–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (02–010)]

Agency Information Collection

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of agency report forms under OMB review.

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. 3506(c)(2)(A)). This information collection is required to ensure proper accounting of Federal funds and property provided under cooperative agreements with commercial firms.

DATES: Comments on this proposal should be received on or before March 1, 2002.

ADDRESSES: All comments should be addressed to Desk Officer for NASA; Office of Information and Regulatory Affairs; Office of Management and Budget; Room 10236; New Executive Office Building; Washington, DC, 20503.

FOR FURTHER INFORMATION CONTACT: Ms. Nancy Kaplan, NASA Reports Officer, (202) 358–1372.

Title: Cooperative Agreements with Commercial Firms.

OMB Number: 2700–0092.

Type of review: Extension.

Need and Uses: Reporting and recordkeeping are prescribed under 14 CFR part 1274. Information collected ensures the accountability of public funds and proper maintenance of an appropriate internal control system.

Affected Public: Business or other for-profit.

Number of Respondents: 107.

Responses Per Respondent: 6.

Annual Responses: 658.

Hours Per Request: 7.

Annual Burden Hours: 4,592.

Frequency of Report: On occasion.

David B. Nelson,

Deputy Chief Information Officer, Office of the Administrator.

[FR Doc. 02–2190 Filed 1–29–02; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (02–011)]

Agency Information Collection Activities

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of agency report forms under OMB review.

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. 3506(c)(2)(A)). This information collection is utilized by NASA procurement and technical personnel in the management of contracts valued at less than $500K.

DATES: Comments on this proposal should be received on or before March 1, 2002.

ADDRESSES: All comments should be addressed to Desk Officer for NASA; Office of Information and Regulatory Affairs; Office of Management and Budget; Room 10236; New Executive Office Building; Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Ms. Nancy Kaplan, NASA Reports Officer, (202) 358–1372.

Title: NASA Acquisition Process—Reports Required On Contracts Valued at Less Than $500K.

OMB Number: 2700–0088.

Type of review: Extension.

Need and Uses: Information is used by NASA procurement and technical personnel in the management of contracts. Collection is prescribed in the NASA Federal Acquisition Regulation Supplement and approved mission statements.

Affected Public: Business or other for-profit; Not-for-profit institutions; State, Local or Tribal Government.

Number of Respondents: 1,282.

Responses Per Respondent: 30.

Annual Responses: 38,460.

Hours Per Request: 27 hrs.

Annual Burden Hours: 1,065,600.

Frequency of Report: On occasion.

David B. Nelson,

Deputy Chief Information Officer, Office of the Administrator.

[FR Doc. 02–2191 Filed 1–29–02; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (02–012)]

NASA Advisory Council, Biological and Physical Research Advisory Committee, Space Station Utilization Advisory Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council, Biological and Physical Research Advisory Committee, Space Station Utilization Advisory Subcommittee.

DATES: Tuesday, February 12, 2002, 8 a.m. to 5 p.m., and Wednesday, February 13, 2002, 8 a.m to 5 p.m.

ADDRESSES: Center for Advanced Space Studies, 3600 Bay Area Boulevard, Houston, Texas.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Uhran, Code UM, National Aeronautics and Space Administration, Washington, DC 20546,(202) 358–2233.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. Advance notice of attendance to the Executive Secretary is requested. The agenda for the meeting will include the following topics:

—Research Operations

—Executive Presentations

—Special Topics

—Response to Prior Recommendations

—Response to Prior Actions

—Task Force on Research Priorities

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key

participants. Visitors will be requested to sign a visitor's register.

Sylvia K. Kraemer,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 02–2192 Filed 1–29–02; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (02–013)]

NASA Advisory Council, Biological and Physical ResearchAdvisory Committee Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory CommitteeAct, Pub. L. 92–463, as amended, the National Aeronautics andSpace Administration announces a meeting of the NASA AdvisoryCouncil, Biological and Physical Research Advisory Committee.

DATES: Tuesday, February 19, 2002, 10 a.m. to 6 p.m.; and Wednesday, February 20, 2002, 8 a.m. to 12 Noon

ADDRESSES: American Management Association, 440 First St.,NW, Washington, DC 20001.

FOR FURTHER INFORMATION CONTACT: Dr. Bradley Carpenter,Code UG, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–0826.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Review Recommendations

—Program Overview

—Division Reports

—Status of International Space Station

—Non-governmental Organization (NGO) and Commercialization Status

—Education and Outreach Policy

—Review of Committee Findings and Recommendations It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Sylvia K. Kraemer,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 02–2193 Filed 1–29–02; 8:45 am]

BILLING CODE 7510–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–460]

Energy Northwest; Nuclear Project No. 1 (WNP–1) Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an extension of the latest construction completion date specified in Construction Permit No. CPPR–134 issued to Washington Public Power Supply System (permittee) for the Nuclear Project No. 1 (WNP–1). As part of this proposed action, the staff will update the permit to reflect an administrative change in the permit holder's name from the Washington Public Power Supply System to Energy Northwest. The facility is located at Energy Northwest's site on the Department of Energy's Hanford Reservation in Benton County, Washington, approximately eight miles north of Richland, Washington.

Environmental Assessment

Identification of Proposed Action

The proposed action would extend the latest construction completion date of Construction Permit No. CPPR–134 from June 1, 2001 to June 1, 2011, and update the permit to reflect an administrative change in the permit holder's name from the Washington Public Power Supply System to Energy Northwest. The proposed action is in response to Energy Northwest's request dated April 9, 2001.

The Need for the Proposed Action

The proposed action is needed to grant the licensee the option of completing construction on WNP–1 in the future. Energy Northwest requested the extension for WNP–1 because some of its stakeholders requested that a viability study be conducted on the completion of the facility. The request was made, in part, because of the increase in the electrical load in the Pacific Northwest. Until the viability study is completed and decisions on generating options to meet future load forecasts are finalized, Energy Northwest would like to maintain completing WNP–1 as an option.

Environmental Impacts of the Proposed Action

The environmental impacts associated with the construction of the facility have been previously discussed and evaluated in the Final Environmental Statement (FES), NUREG–75/012, March 1975, prepared as part of the NRC staff's review of the construction permit application. Because of the passage of time from the issuance of the FES, the staff requested additional information in a June 22, 2001, letter to Energy Northwest, to determine if the conclusions reached in the March 1975 FES remain valid. Energy Northwest responded to these questions in a letter dated November 27, 2001.

In its November 27, 2001, response, Energy Northwest addressed the impact of resumption of construction in the following areas: hstoric and culturally significant sites, disturbance of land and the Columbia River bed, socioeconomic impacts, additional cumulative impacts from other projects in the area, threatened and endangered species, and National Monuments. Highlights of Energy Northwest's response follow. Energy Northwest stated that no additional historic or culturally significant sites have been identified in areas that might be affected by the resumption of construction activities. Regarding disturbance of land and the Columbia River bed, Energy Northwest stated that resumption of construction would not require disturbance of any land that had not already been disturbed prior to the cessation of construction in 1983, and no disturbance of the riverbed or shoreline would be required by the resumption of construction.

Regarding the socioeconomic impacts of WNP–1 construction, Energy Northwest noted that the population in the area has grown and the public infrastructure has grown as well. Energy Northwest concludes that ''[c]ompared to 1975, the estimated socioeconomic impacts of WNP–1 construction would be the same or less.'' Regarding additional cumulative impacts from other projects in the area, Energy Northwest noted that it has no plans for other activities that could contribute to additional cumulative impacts. Energy Northwest did note that the U.S. Department of Energy has plans to construct a waste vitrification plant on the Hanford Site to process radioactive wastes presently stored in tanks. Energy Northwest states that no cumulative impact to the natural environment is anticipated if both construction of WNP–1 and the vitrification plant were pursued concurrently. It did note that it is possible that there would be an incremental stress on the local infrastructure.

Regarding threatened and endangered species, the staff provided two tables in its June 22, 2001, letter providing a list of species identified in the 1975 FES that have been listed as threatened or endangered by the Fish and Wildlife Service and a list of endangered species

based on information from the Environmental Protection Agency that may occur in Benton and Franklin Counties. In its November 27, 2001, response, Energy Northwest noted that ''[r]esumption of construction activities at WNP–1 would not be expected to cause adverse impacts to any listed aquatic or terrestrial species or their habitats. In-river construction work and all significant earthmoving activities have been completed. Experience at the neighboring Columbia Generating Station (having the same intake and outfall design) suggest that water withdrawals and discharges during construction and operation will not harm aquatic species.''

Energy Northwest also responded to a question regarding a recent Presidential Action to create a National Monument in the area near the WNP–1 construction site. In its November 27, 2001, response, Energy Northwest described the boundaries of the Hanford Reach National Monument that was designated by Presidential proclamation on June 9, 2000, noting that the monument generally includes a 1/4 mile corridor along the river in the vicinity of the WNP–1 site. In addition to the river corridor, the monument designation includes about 305 square miles that nearly circumscribe central Hanford. The areas leased by Energy Northwest for intake structures for WNP–1 and the Columbia Generating Station are included in the monument. Energy Northwest notes that construction activities at WNP–1 would not occur on or near the monument. However, there would be typical maintenance type activities within the WNP–1 makeup water pumphouse area. Based on Energy Northwest's November 27, 2001, response, the staff has determined that the conclusions reached in the March 1975 FES remain valid.

The construction of WNP–1 is approximately 65 percent complete; therefore, most of the construction impacts discussed in the FES have already occurred. This action would extend the period of construction as described in the FES and update the name of the construction permit holder. It does not involve any different impacts as described and analyzed in the environmental report and will not involve any different impacts from those described and analyzed in the environmental report. The proposed amendment will not allow any work to be performed that is not already allowed by the existing construction permit. The extension will grant Energy Northwest more time to complete construction in accordance with the previously approved construction permit. The change in the corporate name from the Washington Public Power Supply System to Energy Northwest is administrative in nature. The legal corporate status of the construction permit holder has not changed.

Based on the foregoing, the NRC staff has concluded that the proposed action would have no significant environmental impact. Because this action would only extend the period of construction activities described in the FES, it does not involve any different impacts or a significant change to those impacts described and analyzed in the environmental report. Consequently, an environmental impact statement addressing the proposed action is not required.

Alternatives to the Proposed Action

A possible alternative to the proposed action would be to deny the request. This would result in expiration of the construction permit for WNP–1. This option would require submittal of another application for construction in order to allow the permittee to complete construction of the facility with no significant environmental benefit. The environmental impacts of the proposed action and alternative action are similar.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in the FES for WNP–1.

Agencies and Persons Contacted

In accordance with its stated policy, on January 17, 2002, the staff consulted with the Washington State Official, Mr. Michael Mills of the Energy Facility Site Evaluation Council regarding the environmental impact of the proposed action. The State official had the following comment: ''Energy Northwest has an active Site Certification Agreement with the State of Washington that would allow, subject to amendment, WNP–1 to be constructed and operated. The State also maintains regulatory oversight of activities at the site.''

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that this action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for this action.

For further details with respect to this action, see the licensee's request for extension dated April 9, 2001, and its response to the staff's request for additional information dated November 27, 2001. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, *http:www.nrc.gov* (the Electronic Reading Room).

Dated at Rockville, Maryland this 24th day of January 2002.

For the Nuclear Regulatory Commission.

Marsha K. Gamberoni,

Deputy Director, New Reactor Licensing Project Office, Office of Nuclear Reactor Regulation.

[FR Doc. 02–2204 Filed 1–29–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Meeting of the ACRS Subcommittee on Reliability and Probabilistic Risk Assessment; Notice of Meeting

The ACRS Subcommittee on Reliability and Probabilistic Risk Assessment will hold a meeting on February 22, 2002, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows: *Friday, February 22, 2002—8:30 a.m. until the conclusion of business.*

The Subcommittee will continue its review of risk-informed revisions to the special treatment requirements of 10 CFR part 50 (Option 2). The Subcommittee will review the proposed industry guidance in NEI 00–04, ''Option 2 Implementation Guideline,'' and related matters. The purpose of this meeting is to gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the Designated Federal Official named below five days prior to the meeting, if

possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff, Nuclear Energy Institute, and other interested persons regarding these matters.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, and the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting the Designated Federal Official, Mr. Michael T. Markley (telephone 301/415–6885) between 7:30 a.m. and 4:15 p.m. (EST). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any potential changes to the agenda, etc., that may have occurred.

Dated: January 24, 2002.

Sam Duraiswamy,

Acting Associate Director for Technical Support, ACRS/ACNW.

[FR Doc. 02–2205 Filed 1–29–02; 8:45 am]

BILLING CODE 7590–01–P

COMMISSION ON OCEAN POLICY

Public Meeting

AGENCY: U.S. Commission on Ocean Policy.

ACTION: Notice.

SUMMARY: The U.S. Commission on Ocean Policy will hold its second regional meeting, the Commission's fourth public meeting, to hear and discuss coastal and ocean issues of concern to the Florida and Caribbean region.

DATES: The public meeting will be held Friday, February 22, 2002 from 8 a.m. to 6:30 p.m.

ADDRESSES: The meeting location is the Florida Marine Research Institute, Florida Fish and Wildlife Conservation Commission, First Floor Auditorium, 100 Eighth Avenue, SE, St. Petersburg, FL, 33701.

FOR FURTHER INFORMATION CONTACT: Terry Schaff, U.S. Commission on Ocean Policy, 1120 20th Street, NW, Washington, DC 20036, 202–418–3442, *tschaff@nsf.gov.*

SUPPLEMENTARY INFORMATION: This meeting is being held pursuant to requirements under the Oceans Act of 2000 (Pub. L. 106–256, section 3(e)(1)(E)). The agenda will include presentations by invited speakers representing local and regional government agencies and non-governmental organizations, comments from the public and any required administrative discussions and executive sessions. Invited speakers and members of the public are requested to submit their statements for the record electronically by February 13, 2002 to the meeting Point of Contact. Additional meeting information, including a draft agenda, will be posted as available on the Commission's Web site at *http://www.oceancommission.gov.*

Dated: January 24, 2002.

Thomas R. Kitsos,

Executive Director, U.S. Commission on Ocean Policy.

[FR Doc. 02–2194 Filed 1–29–02; 8:45 am]

BILLING CODE 6820–WM–P

SECURITIES AND EXCHANGE COMMISSION

[Extensions: Regulation D and Form D OMB Control No. 3235–0076, SEC File No. 270–72]

Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Form D sets forth rules governing the limited offer and sale of securities without Securities Act registration. The purpose of Form D notice is to collect empirical data, which provides a continuing basis for action by the Commission either in terms of amending existing rules and regulations or proposing new ones. In addition, the Form D allows the Commission to elicit information necessary in assessing the effectiveness of Regulation D and Section 4(6) as capital-raising devices for all businesses. Approximately 13,518 issuers file Form D and it takes approximately 16 hours to prepare. It is estimated that 90% of the 216,288 burden hours (194,659 hours) is prepared by the company.

Written comments are invited on: (a) Whether this collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

Dated: January 17, 2002.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–2183 Filed 1–29–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45315; File No. SR–OPRA–2001–05]

Options Price Reporting Authority; Notice of Filing and Immediate Effectiveness of Amendment to OPRA Plan To Revise OPRA's Fee Schedule To Reflect Changes to Various Fees

January 18, 2002.

Pursuant to rule 11Aa3–2 under the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on December 11, 2001, the Options Price Reporting Authority (''OPRA''),[2]

[1] 17 CFR 240.11Aa3–2.

[2] OPRA is a national market system plan approved by the Commission pursuant to Section 11A of the Exchange Act, 15 U.S.C. 78k–1, and Rule 11Aa3–2 thereunder, 17 CFR 240.11Aa3–2. *See* Securities Exchange Act Release No. 17638 (March 18, 1981), 22 S.E.C. Docket 484 (March 31, 1981). The OPRA Plan provides for the collection and dissemination of last sale and quotation information on options that are traded on the participant exchanges. The five signatories to the OPRA Plan that currently operate an options market are the American Stock Exchange, the Chicago Board Options Exchange, the International Securities Exchange, the Pacific Exchange, and the Philadelphia Stock Exchange. The New Stock Exchange is a signatory to the OPRA Plan, but sold its options business to the Chicago Board Options

Continued

submitted to the Securities and Exchange Commission (''Commission'') an amendment to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information (''OPRA Plan''). The proposed amendment would (i) increase certain fees charged by OPRA in respect of its Basic Service; (ii) expand the entitlement of professional subscribers that elect to pay OPRA's Enterprise Rate Professional Subscriber Fee in lieu of the device-based Professional Subscriber Fee by adding to the category of persons entitled to receive OPRA market data under the subscribers' Enterprise Rate plan independent investment advisers that contract with such subscribers to provide services to the subscriber's customers; and (iii) eliminate the ''Ratio Paging Service Fee'' as a separate usage-based fee, and clarify that radio paging and related types of services qualify for the ''dial-up'' usage-based fee, at the same rate. OPRA has designated the proposed OPRA Plan amendment as establishing or changing a fee or other charge collected on behalf of all of the OPRA participants in connection with access to or use of OPRA facilities and the proposal is, therefore, effective upon filing, pursuant to Rule 11Aa3–2(c)(3)(i) under the Act.[3] The Commission is publishing this notice to solicit comments on the proposed OPRA Plan amendment from interested persons.

I. Description and Purpose of the Amendment

The text of the revised fee schedule is set forth below. Text additions are in *italics*, deletions are in brackets:

OPTIONS PRICE REPORTING AUTHORITY FEE SCHEDULE

[Effective February 1, 2002]

Description	Basic service [4]
Direct Access Charge: A monthly fee payable by every person that has been authorized by OPRA to receive Options Information via the consolidated high-speed service from OPRA's processor. This charge includes one primary and one back-up circuit connection at the processor. Additional circuit connections are available at a monthly charge of $100 per connection.	*$1,000* [$750]
Redistribution Fee: A monthly fee payable by every vendor that redistributes Options Information to any person, whether on a current or delayed basis, except that this fee shall not apply to a vendor whose redistribution of Options Information is limited solely to ''historical'' Options Information, as that term is defined in the Vendor Agreement.	$1,500 *$650* [$600] (Internet service only)
Dial-up Market Data Service Utilization Fee: A monthly fee, payable in arrears, consisting of a usage-based fee for each ''quote packet'' consisting of any one or more of the following values: last sale, bid/ask, and related market data for a single series of options or a related index or, if elected in writing by vendor, a usage-based fee for each ''options chain'' consisting of last sale, bid/ask, and related market data for up to all series of put and call options on the same underlying security or index, in each case as accessed over vendor's ''Dial-up Market Data Service [as an alternative to the port charge described above]. *A vendor's ''Dial-up Market Data Service'' may consist of any wired or wireless private network or Internet-based communications system by means of which a vendor provides options market data to its customers subject to and in accordance with a ''Dial-up Market Data Service Rider'' to its Vendor Agreement.* All inquiries shall be counted for purposes of calculating the usage-based fee, except that requests for ''historical'' information shall not be subject to charge. For this purpose, market information derived from a given trading day of an options market becomes ''historical'' upon the opening of trading on the next succeeding trading day of that market.	Usage-based fee at a rate of $0.005 per ''quote packet'' or $0.02 per ''options chain'', subject to a maximum fee of $1.00 on account of the use made in any month by any single non-professional subscriber.
[Radio Paging Service Fee: A monthly fee, payable in arrears by every vendor that offers a radio paging market data service, for each text display paging device enabled to receive the service provided by the vendor or by a radio paging company that receives options market data from the vendor. Alternatively, vendor may elect in writing to pay a usage-based fee for each ''quote packet'' consisting of any one or more of the following values: last sale, bid/ask, and related market data for a single series of options or a related index or, if elected in writing by vendor, a usage-based fee for each ''options chain'' consisting of last sale, bid/ask, and related market data for up to all series of put and call options on the same underlying security or index, in each case as accessed over vendor's Radio Paging Service, as an alternative to the device charge described above. All inquiries shall be counted for purposes of calculating the usage-based fee, except that requests for ''historical'' information shall not be subject to charge. For this purpose, market information derived from a given trading day of an options market becomes ''historical'' upon the opening of trading on the next succeeding trading day of that market.].	[$1 per device, or usage-based fee at a rate of $0.005 per ''quote packet'' or $0.02 per ''options chain''.]

[4] OPRA's Basic Service does not include last sale and quotation information pertaining to foreign currency options. Subscribers who have access to FCO information are subject to a separate FCO Service subscriber fee.

The purpose of the amendment is to increase certain fees charged by OPRA in respect of its Basic Service, to make minor editorial changes to the Basic Service fee schedule, and to expand the coverage of the Enterprise Rate Professional Subscriber Fee. Specifically, OPRA proposes to increase by approximately five percent the device-based information fee payable to OPRA by professional subscribers to OPRA's Basic Service, which consists of market data and related information pertaining to equity and index options (''OPRA data'').[5] OPRA also proposes to increase from $750 to $1,000 OPRA's direct access charge (applicable to persons who receive OPRA data by means of a direct high-speed connection to the OPRA Processor), and to increase from $600 to $650 OPRA's Internet-only redistribution fee (payable by persons who redistribute OPRA data solely by means of the Internet). OPRA also proposes to update the terminology used in the OPRA fee schedule by eliminating the ''Radio Paging Service Fee'' as a separate usage-based fee category, and by amending the description of OPRA's ''Dial-up Market

Exchange in 1997. *See* Securities Exchange Act Release No. 38542 (April 23, 1997), 62 FR 23521 (April 30, 1997).

[3] 17 CFR 240.11Aa3–2(c)(3)(i).

[5] No changes are proposed to be made at this time to fees charged to vendors and subscribers for access to information pertaining to foreign currency options provided through OPRA's FCO Service.

Data Service Utilization Fee'', which is a usage-based fee at the same rate as the radio paging fee, to make it clear that radio paging services and other types of wired and wireless network services, including Internet-based services, qualify for this usage-based fee. These terminology changes will have no effect on the fees paid to OPRA by any persons.

The proposed increase in device-based professional subscriber fees ranges from 4.55% to 6.90% of the existing fees. Professional subscriber fees charged to members will continue to be discounted by two percent for members who preauthorize payment by electronic funds transfer through an automated clearinghouse system. OPRA estimates that the overall effect of the proposed increase in professional subscriber fees will be to increase revenues derived from professional subscriber fees by approximately five percent. Professional subscribers are those persons who subscribe to OPRA Data and do not qualify for the reduced fees charged to nonprofessional subscribers.

As an alternative to device-based fees, professional subscribers may pay an Enterprise Rate Professional Subscriber Fee based on the number of their U.S. registered representatives. This amendment proposes to expand the entitlement of professional subscribers that elect to pay OPRA's Enterprise Rate Professional Subscriber Fee by allowing OPRA's Basic Service to be made available to independent investment advisers who contract with such subscribers to provide investment advisory services to the subscribers' customers. Heretofore such investment advisers have had to pay OPRA's regular, device-based professional subscriber fee in order to access OPRA data. All investment advisers who contract with an Enterprise Rate professional subscriber to provide investment advisory services to the subscriber's customers, and who will therefore be entitled to access OPRA data under the sponsorship of the subscriber, will be added to the subscriber's count of registered representatives for purposes of calculating the subscriber's Enterprise Rate Professional Subscriber Fee. No other changes are proposed to be made to the Enterprise Rate Professional Subscriber Fee.

The proposed increases in the device-based professional subscriber fee, the direct access fee, and the Internet-only redistribution fee are intended to generate additional revenues for OPRA in order to cover actual and anticipated increases in the costs of collecting, consolidating, processing and disseminating options market. These increases reflect the costs of continuing enhancements to and upgrades of the OPRA system to enable it to handle a greater volume of market information as a result of the continuing expansion of listed options trading and the implementation of decimal pricing. The proposed expanded entitlement of Enterprise Rate subscribers to include independent investment advisers reflects the expanded utilization of independent investment advisers by retail brokerage firms, and is intended to lower the cost of access to OPRA data to those firms and to their independent investment advisers.

II. Implementation of the Plan Amendment

OPRA represents that the proposed OPRA Plan amendment establishes or changes a fee or other charge collected on behalf of all of the OPRA participants in connection with access to or use of OPRA facilities and is, therefore, effective upon filing, pursuant to Rule 11Aa3–2(c)(3)(i) under the Act.[6] In order to give persons subject to the fees advance notice of the changes, OPRA proposes to put them into effect commencing February 1, 2002. At any time within 60 days of the filing of the OPRA Plan amendment, the Commission may summarily abrogate the amendment and require that such amendment be filed in accordance with Rule 11Aa3–2(b)(1) under the Act[7] and reviewed in accordance with Rule 11Aa3–2(c)(2) under the Act[8] if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or the maintenance of fair and orderly markets; to remove impediments to, and perfect the mechanisms of, a national market system; or otherwise in furtherance of the purposes of the Act.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed OPRA Plan amendment is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC, 20549–0609. Copies of the submission, all subsequent amendments, and all written statements with respect to the proposed OPRA Plan amendment that are filed with the Commission, and all written communications relating to the proposed OPRA Plan amendment between the Commission and any person, other than those withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available at the principal offices of OPRA. All submissions should refer to File No. SR–OPRA–2001–05 and should be submitted by February 20, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 02–2214 Filed 1–29–02; 8:45 am]

BILLING CODE 8010–01–M

[6] 17 CFR 240.11 Aa3–2(c)(3)(i).

[7] 17 CFR 240.11 Aa3–2(b)(1).

[8] 17 CFR 240.11 Aa3–2(c)(2).

[9] 17 CFR 200.30–3(a)(29).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45326; File No. SR–NYSE–99–51]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Order Tracking and Amendment Nos. 1, 2 and 3 Thereto

January 23, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on December 27, 1999, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. On May 24, 2000, the Exchange filedAmendment No. 1 to the proposal.[3] On August 14, 2001, the Exchange filed Amendment No. 2 to the proposal.[4] On

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Letter from James E. Buck, Senior Vice President and Secretary, NYSE, to Jennifer Colihan, Attorney, Division of Market Regulation (''Division''), Commission, dated May 22, 2000 (''Amendment No. 1''). In Amendment No. 1, the Exchange deleted the phrase ''or execution'' from proposed Rule 132B(a)(1)(C) as unnecessary for application of the Rule.

[4] *See* Letter from Darla C. Stuckey, Assistant Secretary, NYSE, to Nancy J. Sanow, Assistant Director, Division, Commission, dated August 14, 2001 (''Amendment No. 2''). In Amendment No. 2, the Exchange proposed to: (1) Amend Rule 123 by adding proposed paragraph (f) which would set forth the details required to be recorded of each execution report, including a unique order identifier, and (2) amend Rule 132.30 by deleting

Continued

January 17, 2002, the Exchange filed Amendment No. 3 to the proposal.[5]

The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of amendments NYSE Rule 123, Interpretation .30 to NYSE Rule 132, and the proposed adoption of new NYSE Rules 132A, B and C, which will govern order tracking. The text of the proposed rule change is as follows (additions are italicized; deletions are bracketed):

Rule 123—Records of Orders

(f) Reports of Order Executions

Order execution reports must be entered into the same database as required by this rule for the entry of orders. Any member organization proprietary system used to record the details of an order pursuant to paragraph (e) must also be capable of transmitting a report of the order's execution to such database. Order execution reports must be entered into such system within such time frame as the Exchange may prescribe. The details of each execution report required to be recorded shall include the following data elements, and any modifications to the report, in such form as the Exchange may from time to time prescribe:

1. *Order identifier that uniquely identifies the order as required by paragraph (e);*
2. *Symbol;*
3. *Number of shares or quantity of security;*
4. *Transaction price;*
5. *Time the trade was executed;*
6. *Executing broker badge number, or alpha symbol as may be used from time to time, in regard to its side of the contract;*
7. *Executing broker badge number, or alpha symbol as may be used from time to time, of the contra side to the contract;*
8. *Clearing firm number, or alpha symbol as may be used from time to time, in regard to its side of the contract;*
9. *Clearing firm number, or alpha symbol as may be used from time to time, in regard to the contra side of the contract;*
10. *Whether the account for which the order was executed was that of a member or member organization or of a non-member or non-member organization;*
11. *Identification of member or member organization which recorded order details as required by paragraph (e);*
12. *Date the order was entered into an Exchange system;*
13. *Indication as to whether this is a modification to a previously submitted report;*
14. *Settlement Instructions (e.g., cash, next day, or seller's option);*
15. *Special Trade Indication, if applicable;*
16. *Online Comparison System (OCS) Control Number;*
17. *Such other information as the Exchange may from time to time require*

Comparison and Settlement of Transactions Through A Fully-Interfaced or Qualified Clearing Agency

Rule 132

* * * * *

.30 Regardless of whether or not a Fully-Interfaced or Qualified Clearing Agency is being used for the comparison and/or settlement of a round-lot regular way contract for the purchase or sale of a security entered into on the Exchange, each clearing member organization that is a party to such contract shall submit to a Fully-Interfaced or Qualified Clearing Agency, as defined above, in such form and within such time periods as may be prescribed by the Clearing Agency, or the Exchange, as appropriate, each of the following trade data elements:

(1) Name or identifying symbol of the security, as may be required by the clearing agency;

(2) Number of shares or quantity of security;

(3) Transaction price;

(4) Time the trade was executed;

(5) Executing broker badge number, or alpha symbol as may be used from time to time, in regard to its side of the contract;

(6) Executing broker badge number, or alpha symbol as may be used from time to time, of the contra side to the contract;

(7) Clearing firm number, or alpha symbol as may be used from time to time, in regard to its side of the contract;

(8) Clearing firm number, or alpha symbol as may be used from time to time, in regard to the contra side of the contract;

(9) Whether the account for which the order was executed was that of a member or member organization or of a non-member or non-member organization;

[(10) The order identifier for the order as prescribed in Rule 132B(e);]

(10) [(11)] Such other information as the Exchange may from time to time require.

Each clearing member organization that is a party of a round lot non-regular way contract for the purchase or sale of a security entered into on the Exchange shall submit each of the trade data elements referred to above to the Exchange, in such form and within such time periods as the Exchange may prescribe.

* * * * *

Rule 132A. Synchronization of Member Business Clocks

Each member and member organization shall synchronize its business clocks that are used for purposes of recording the date and time of any event that must be recorded pursuant to the Rules of the Exchange, with reference to a time source as designated by the Exchange, and shall maintain the synchronization of such business clocks in conformity with such procedures as are prescribed by the Exchange.

Rule 132B. Order Tracking Requirements

(a) *Procedures.*

1. *With respect to any security listed on the New York Stock Exchange, each member and member organization shall:*

A. *immediately following receipt or origination of an order, record each item of information described in paragraph (b) of this Rule that applies to such order, and record any additional information described in paragraph (b) of this Rule that applies to such order immediately after such information is received or becomes available; and*

B. *immediately following the transmission of an order to another member, or from one department to another within the same member organization, record each item of information described in paragraph (c) of this Rule that applies with respect to such transmission; and*

132.30(10), which would have required a unique order identifier be added to the data elements in post trade processing. The Exchange represents that this change will ensure that a unique order identifier will be attached throughout the life of an order, thus simplifying the tracking process.

[5] See Letter from Darla Stuckey, Corporate Secretary, NYSE, to Belinda Blaine, Associate Director, Division, Commission, dated January 17, 2002 (''Amendment No. 3''). In Amendment No. 3, the Exchange explained that it did not believe that it was cost-effective to store all order tracking data collected from members on a daily basis, and clarified that therefore members would be required to submit data to the NYSE on an ''as requested'' basis rather than daily as a matter of routine. The Exchange also represented that the data collected would be used solely for regulatory purposes, and that it would not use data received from its members pursuant to the proposed rules to gain a competitive advantage over another self-regulatory organization or broker-dealer. Lastly, the Exchange explained what it considered order origination and time of receipt of an order.

C. *immediately following the modification or cancellation of an order, record each item of information described in paragraph (d) of this Rule that applies with respect to such modification or cancellation.*

2. *Each required record of the time of an event shall be expressed in terms of hours, minutes, and seconds.*

3. *Each member or member organization shall, by the end of each business day, record each item of information required to be recorded under this Rule in such electronic form as is prescribed by the Exchange from time to time.*

4. *Maintaining and Preserving Records*

A. *Each member and member organization shall maintain and preserve records of the information required to be recorded under this Rule for the period of time and accessibility specified in SEC Rule 17a-4(b).*

B. *The records required to be maintained and preserved under this Rule may be immediately produced or reproduced on ''micrographic media'' as defined in SEC Rule 17a-4(f)(1)(i) or by means of ''electronic storage media'' as defined in SEC Rule 17a-4(f)(1)(ii) that meet the conditions set forth in SEC Rule 17a-4(f) and be maintained and preserved for the required time in that form.*

(b) *Order Origination and Receipt*

Unless otherwise indicated, the following order information must be recorded under this Rule when an order is received or originated:

1. *an order identifier meeting such parameters as may be prescribed by the Exchange assigned to the order by the member or member organization that uniquely identifies the order for the date it was received;*

2. *the identification symbol assigned by the Exchange to the security to which the order applies;*

3. *the market participant symbol assigned by the Exchange to the member or member organization;*

4. *the identification of any department or the identification number of any terminal where an order is received directly from a customer;*

5. *where the order is originated by a member or member organization, the identification of the department (if appropriate) of the member that originates the order;*

6. *the number of shares to which the order applies;*

7. *the designation of the order as a buy or sell order;*

8. *the designation of the order as a short sale order;*

9. *the designation of the order as a market order, limit order,* stop order or stop limit order;

10. *any limit and/or stop price prescribed in the order;*

11. *the date on which the order expires, and, if the time in force is less than one day, the time when the order expires;*

12. *the time limit during which the order is in force;*

13. *any request by a customer that an order not be displayed pursuant to Rule 11Acl-4(c) under the Securities Exchange Act of 1934;*

14. *special handling requests, specified by the Exchange for purposes of this Rule;*

15. *the date and time the order is originated or received by a Member or member organization; and*

16. *the type of account, i.e., retail, wholesale, employee, proprietary, or any other type of account designated by the Exchange, for which the order is submitted.*

(a) *Order Transmittal.*

Order information required to be recorded under this Rule when an order is transmitted includes the following:

1. *When a member or member organization transmits an order to another department within the member, other than to the trading department, the member or member organization shall record:*

A. *the order identifier assigned to the order by the member or member organization,*

B. *the market participant symbol assigned by the Exchange to the member or member organization,*

C. *the date the order was first originated or received by the member or member organization, D. an identification of the department to which the order was transmitted, and*

E. *the date and time the order was received by that department;*

1. *When a member or member organization transmits an order to another member or member organization:*

A. *the transmitting member or member organization shall record:*

(i) *whether the order was transmitted manually or electronically,*

(ii) *the order identifier assigned to the order by that member or member organization,*

(iii) *the market participant symbol assigned by the Exchange to that member or member organization,*

(iv) *the market participant symbol assigned by the Exchange to the member or member organization to which the order is transmitted,*

(v) *the date the order was first originated or received by the transmitting member or member organization,*

(vi) *the date and time the order is transmitted, (vii) the number of shares to which the transmission applies, and*

(viii) *for each order to be included in a bunched order, the bunched order route indicator assigned to the bunched order by the member or member organization; and*

B. *the receiving member or member organization shall record, in addition to all other information items in Rule 132B that apply with respect to such order:*

(i) *the fact that the order was received manually or electronically;*

(ii) *the order identifier assigned to the order by the member or member organization that transmits the order, and*

(iii) *the market participant symbol assigned by the Exchange to the member or member organization that transmits the order.*

C. *The requirement in paragraph 2A above to record information regarding the transmission of an order to another member or member organization shall not apply to:*

(i) *the transmitting member or member organization where the order was transmitted to the Floor by means of the SuperDOT system; or*

(ii) *the transmitting member on the Floor, where the order is transmitted on the Floor to another member, and the order had been entered into an Exchange data base pursuant to Exchange Rule 123(e) or had been received on the Floor by means of the SuperDOT system, except that the transmitting member shall record the order identifier as specified in paragraph (e) of this Rule, and the market participant symbol assigned by the Exchange to the member or member organization to which the order was transmitted.*

D. *The requirement in paragraph 2B above to record information regarding the receiving of an order shall not apply where:*

(i) *the receiving member or member organization received the order by means of the SuperDOT system; or*

(ii) *the receiving member received the order on the Floor from another member on the Floor, and the order had been entered into an Exchange data base pursuant to Exchange Rule 123(e) or had been received on the Floor by means of the SuperDOT system, except that the receiving member shall record the order identifier as specified in paragraph (e) of this Rule, and the market participant symbol assigned by the Exchange to the member or member organization from which the order was received.*

3. *When a member or member organization transmits an order to a*

non-member, the member or member organization shall record:

A. *the fact that the order was transmitted to a non-member,*

B. *the order identifier assigned to the order by the member or member organization,*

C. *the market participant symbol assigned by the Exchange to the member or member organization,*

D. *the date the order was first originated or received by the member or member organization,*

E. *the date and time the order is transmitted,*

F. *the number of shares to which the transmission applies, and*

G. *for each manual order to be included in a bunched order, the bunched order route indicator assigned to the bunched order by the member or member organization.*

(d) *Order Modifications and Cancellations.*

Order information required to be recorded under this Rule when an order is modified or canceled includes the following:

1. *When a member or member organization modifies or receives a modification to the terms of the order, the member or member organization shall record, in addition to all other applicable information items (including a new order identifier) that would apply as if the modified order were originated or received at the time of the modification:*

A. *the order identifier assigned to the order by the member or member organization prior to the modification,*

B. *the date and time the modification was originated or received and*

C. *the date the order was first originated or received by the member or member organization.*

2. *When the member or member organization cancels or receives a cancellation of an order, in whole or part, the member or member organization shall record:*

A. *the order identifier assigned to the order by the member or member organization,*

B. *the market participant symbol assigned by the Exchange to the member or member organization,*

C. *the date the order was first originated or received by the member or member organization,*

D. *the date and time the cancellation was originated or received,*

E. *if the open balance of an order is canceled after a partial execution, the number of shares canceled, and*

F. *whether the order was canceled on the instruction of a customer or the member or member organization.*

3. *The requirements in paragraphs 1 and 2 above regarding the recording of information with respect to receiving a modification or cancellation of an order shall not apply where:*

(i) *the receiving member or member organization received the modification or cancellation by means of the SuperDOT system; or*

(ii) *the receiving member received the modification or cancellation on the Floor from another member on the Floor, and such modification or cancellation had been entered into an Exchange database pursuant to Exchange Rule 123(e), or had been received on the Floor by means of the SuperDOT system.*

(e) *The order identifier referred to in paragraph (b)(1) above shall be the order identifier required by Exchange Rule 123(e) with respect to any order transmitted by a member or member organization to the Floor for execution, and to any order received on the Floor by a member or member organization from off the Floor, except that the order identifier with respect to an order transmitted to the Floor by means of the SuperDOT system shall be the order identifier assigned to such order.*

(f) *The provisions of this Rule shall not apply to members effecting on the Floor proprietary transactions when they are acting in the capacity of a specialist, a Registered Competitive Market Maker, or a Competitive Trader.*

Rule 132C: Transmission of Order Tracking Information to the Exchange

Members and member organizations shall be required to transmit to the Exchange, in such format as the Exchange may from time to time prescribe, such order tracking information as the Exchange may request.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to add new provisions and procedures in its rules to require the recording of details of orders in Exchange listed securities by its members and member organizations. The requirements of amended Rule 123, Rule 132 and new Rules 132A, B and C will be integrated into existing Exchange procedures and systems to create a complete order audit trail from origination through execution and cancellation.

a. *Summary of Proposed Rules.*

The Exchange proposes the adoption of four new rules which will require members and member organizations (herein referred to collectively as ''members'') to record and retain order information, to synchronize their time keeping equipment with a time source designated by the Exchange and to provide the Exchange with information on orders when so requested. Specifically, the Exchange has adopted requirements for the electronic capture of orders at the point of sale (front end systemic capture, or ''FESC'') [6] and is proposing requirements for the electronic capture of orders at the point of receipt (order tracking system, or ''OTS''). The purpose of the requirements is to create a complete systemic record of orders handled by members and member organizations. These requirements will provide benefits both to the Exchange and members in terms of recordkeeping, surveillance and order processing. The design of FESC and OTS includes linking them to other Exchange systems in order to maximize their use. A key to linking is the provision for a unique order identifier in Rule 123(e). This order identifier is required to be included in each phase of processing as the order moves from entry through execution (or modification or cancellation) into reporting of an execution. With this unique identifier attached throughout the life of the order, tracking the order will be simplified. The order identification requirement would actually become effective when Rule 123(f) is implemented, which would be concurrent with the Exchange's implementation of proposed Rules 132A, B, and C. The proposed

[6] *See* Securities Exchange Act Release No. 43689 (December 7, 2000), 65 FR 79145 (December 18, 2000).

rules and amendments are detailed below.

i. *Rule 123(f)*

Proposed Rule 123(f) requires that order execution reports be entered into FESC, and that any member organization proprietary system used to record the details of an order must also be capable of transmitting a report of the order's execution to FESC. The proposed rule further requires that the details of each execution report required to be recorded must include the following data elements: (1) Order identifier that uniquely identifies the order as required by paragraph 123(e); (2) symbol; (3) number of shares or quantity of security; (4) transaction price; (5) time the trade was executed; (6) executing broker badge number, or alpha symbol as may be used from time to time, in regard to its side of the contract; (7) executing broker badge number, or alpha symbol as may be used from time to time, of the contra side to the contract; (8) clearing firm number, or alpha symbol as may be used from time to time, in regard to its side of the contract; (9) clearing firm number, or alpha symbol as may be used from time to time, in regard to the contra side of the contract; (10) whether the account for which the order was executed was that of a member or member organization or of a non-member or non-member organization; (11) identification of member or member organization which recorded order details as required by paragraph (e); (12) date the order was entered into an Exchange system; (13) indication as to whether this is a modification to a previously submitted report; (14) settlement instructions (*e.g.,* cash, next day, or seller's option); (15) Special Trade Indication, if applicable; (16) online Comparison System (OCS) Control Number; and (17) such other information as the Exchange may from time to time require.

ii. *Rule 132A*

Proposed Rule 132A requires members to synchronize the business clocks used to record the date and time of any event that the Exchange requires to be recorded. The Exchange will require that the date and time of orders in securities listed on the Exchange be so recorded. The proposed Rule also requires that members maintain the synchronization of this equipment in conformity with procedures prescribed by the Exchange. The Exchange intends to coordinate time synchronization with the National Association of Securities Dealers Inc.'s (''NASD'') identical requirements.[7]

[7] *See* NASD Rule 6953.

iii. *Rule 132B*

Proposed Rule 132B prescribes requirements and procedures with respect to orders in any security listed on the Exchange received or originated by a member. Paragraph (a) of the proposed rule requires immediate recordation of the data elements described in paragraph (b). If an order is transmitted to another member or is transmitted to another department of the same member, information detailed in paragraph (c) must be recorded. If an order is modified or cancelled, information required by paragraph (d) must be recorded. The various data elements and information required by the proposed rule must be recorded in an electronic format prescribed by the Exchange. Time records must be expressed in hours, minutes and seconds. The Rule makes clear that the records required therein must be preserved pursuant to Rule 17a–4(b) under the Act and that these records may be produced or reproduced on ''micrographic media'' as contemplated under Rule 17a–4(f) under the Act.

Paragraph (b) of the proposed rule contains the sixteen data elements to be recorded for an order. These include: (1) An order identifier; (2) stock symbol; (3) identification of the member; (4) department identification of the member or terminal identification number for orders received via a SuperDOT terminal; (5) department of the member which originated the order; (6) number of shares; (7) buy or sell order designation; (8) whether the order is a short sale order; (9) whether the order is a market, limit, stop or stop limit order (which terms are defined in Rule 13 of the Exchange); (10) any limit price, stop price or stop limit price prescribed in the order; (11) the date, if any, that an order expires or, if the order is in force for less than a day, the time when it expires; (12) the time limit the order is in force; (13) any request by the customer that the order not be displayed pursuant to Rule 11Ac1–4 under the Act; (14) any special handling requests (such as fill or kill, market-on-close, limit-on-close, not held, etc); (15) date and time of origination or receipt of the order;[8] and (16) the type of account for which the order is entered. Each of these data elements are commonly understood and used by members.

Paragraph (e) of the proposed rule explains that the order identifier is the order identifier required by NYSE Rule 123(e). As explained above, this is the identifier assigned to an order in connection with the Exchange's FESC initiative. Under Rule 123(e), before an order is represented or executed on the Floor of the Exchange, a member must assign a unique identifier to it. This identifier will stay with the order throughout its processing life, through cancellation or execution.

Paragraph (c) of proposed rule 132B requires that certain information be recorded when an order is transmitted to another department within the member, to another member, or to a non-member. When transmitted to another department, the following must be recorded: the order identifier, identification of the member, the date of receipt or origination of the order, the identification of the department to which the order was transmitted and the date and time the order was received by the department.

Paragraph (c)(2) contains requirements for both receiving and transmitting members when an order is transmitted from one member to another. The transmitting member must record whether the order was transmitted manually or electronically, the order identifier, market participant symbol for both receiver and transmitter, date of origination or receipt by the transmitting member, the date and time the order was transmitted, the number of shares so transmitted and, if the order is included in a bunched order, the bunched order route indicator assigned by the member. A bunched order is any aggregation of two or more orders. The receiving member must record whether the transmitted order was received manually or electronically, the order identifier and the identifier of the member transmitting the order.

Exceptions to the requirement for recording information for both the transmitting and receiving member are contained in proposed Rule 132B(c)(2)(C) and 132(c)(2)(D). These exceptions are for orders transmitted to the Floor via SuperDOT, the Exchange's automated order routing system, and orders transmitted to another member on the Floor of the Exchange, where the order was entered into an Exchange data base pursuant to Rule 123(e), the Exchange's front-end systemic order capture requirements. In light of the objective of being able to identify an order from start to finish, both the receiving and transmitting members

[8] For purposes of Rule 132B(b)(15), for electronic orders, the Exchange will consider order origination and time of receipt of an order to be the time the order is captured by a member organization's electronic order-routing or execution system. For manual orders, the Exchange will consider order origination and time of receipt of an order to be the time the order is first received by the member organization from the customer. *See* Amendment No. 3, *supra* note 5.

must record the order identifier and the identity of the member transmitting and receiving the order.

For orders transmitted to a non-member, the member must record that fact as well as the order identifier, member's identity, date of receipt or origination of the order, date and time of the order, number of shares, and, if applicable, any bunched order route indicator.

If an order is modified, proposed Rule 132B(d) requires that the order identifier (and any new order identifier, if applicable), date and time of modification and date the original order was received or originated be recorded. If an order is cancelled, (d)(2) requires the date and time of cancellation, whether the customer or the member cancelled the order, and the number of shares cancelled if there is a partial execution. This is in addition to the basic requirements to record the order identifier, identity of the member and the date and time when the order was first received or originated.

The same exceptions with respect to SuperDOT orders and orders on the Floor entered into a database under Rule 123(e) will apply to modifications and cancellations. Modification and cancellation will be elements captured in these systems, and will not need to be captured by the member on the Floor.

Paragraph (f) of proposed rule 132B provides an exception to the Rule for proprietary transactions of specialists, Registered Competitive Market Makers and Competitive Traders. The transactions these members effect for their own accounts are not, in effect, orders as contemplated by the Rule. Information with respect to these transactions is recorded and maintained by these members pursuant to the recordkeeping requirements of Exchange and Commission Rules.

iv. *Rule 132C*

New Rule 132C requires members, upon request, to transmit order tracking data to the Exchange. This parallels the approach used under Rule 410A (Automated Submission of Trading Data) for submission of transaction information. The Exchange will make requests for order tracking information on an as-needed basis in order for the Exchange to carry out its surveillance and regulatory functions. The Commission recognizes that the NYSE, in its regulatory capacity, can obtain sensitive market data that could benefit the NYSE's market operation if used for competitive purposes. The NYSE has assured the Commission that this information is being collected solely for regulatory purposes and that it will not use OTS data to gain an unfair competitive advantage over other market participants.[9]

Members will be required to submit the data in an automated format. It is the Exchange's experience that submission of data by request has proven to be effective and efficient from both the Exchange's and its members' viewpoint.

b. *Integration with Existing Exchange Requirements*

With the implementation of Rule 132B, Exchange rules will provide a complete audit trail of orders from receipt through execution. As mentioned above, NYSE Rule 123(e) provides for the systemic capture of orders before they are represented or executed on the Floor. This includes the assignment of the unique identifier to each order. In addition, the Exchange intends to require that, in the future, all orders be systemically delivered to its Floor, thus providing an electronic capture of order data from receipt or origination of an order. The audit trail requirements of proposed Rule 132B require information on the execution and clearance of transactions, the so-called ''back end'' of orders. With the addition of Rule 123(f), which requires recordation of the unique order identifier as part of the execution report, the Exchange represents that an order could be tracked throughout the life of the order. The unique order identifier would link the execution report to the original order.

c. *Violation of Order Tracking Requirements*

If, upon investigation, the Exchange determines that a violation of the Rule proposed to be amended or adopted herein has occurred, the Exchange will take appropriate action under the procedures of its disciplinary rules, including Rule 476. If a particular violation is deemed minor in nature, this could include issuance of a cautionary letter. In the future, the Exchange will consider seeking approval to add these rules to the list of rules contained in Rule 476A which provides for the imposition of fines for minor violations of rules.

d. *Effective Date*

The Exchange will require that the provisions of the rules and amendments proposed herein become effective fifteen months after the Commission's approval.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)[10] that an exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and to perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The proposed rule change will enable the Exchange to fulfill its regulatory responsibilities to effectively surveil its market. The proposed rule change fulfills an undertaking contained in an order issued by the Commission[11] relating to the Exchange's regulatory responsibilities. Specifically, the Order directed the Exchange to ''design and implement * * * an audit trail sufficient to enable the NYSE to reconstruct its market promptly. * * *'' The Order called for ''an accurate, time-sequenced record of orders''' throughout an order's life, from receipt through execution or cancellation and for synchronization of clocks used in connection with the audit trail of orders.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) by order approve the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. In particular,

[9] *See* Amendment No. 3, *supra* note 5.

[10] 15 U.S.C. 78f(b)(5).

[11] *See* In the Matter of New York Stock Exchange, Inc. SEC Release No. 41574 (June 29, 1999); Administrative Proceeding File No. 3–9925 (''Order'').

the Commission solicits comments on when the Exchange should consider a manual order ''received'' for purposes of proposed NYSE Rule 132B(b)(15). As proposed, the Exchange will consider the time of receipt of such as order as the time the firm first receives the order from a customer. However, the Commission and the Exchange are aware that there are occasions when members receive orders after business hours, and at remote locations. For these reasons, the Commission requests comment on whether is it reasonable to interpret time of receipt of a manual order to be when the order is first received by the member without further consideration given to when and/or where the order was received by the member. To the extent commenters believe that modification to the interpretation is needed, the Commission requests that commenters provide specific suggestions on what the time of receipt for manual orders should be.

The Commission also requests comment on whether NYSE members that are also members of the NASD required to comply with NASD's Order Audit Trail System (''OATS'') rules will be able to use the internal systems they currently have in place for collecting and storing order tracking data in order to comply with the proposed NYSE rules, or whether they will need to make system changes.

Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–99–51 and should be submitted by February 20, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 02–2213 Filed 1–29–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45332; File No. SR–NYSE–2002–05]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange, Inc. To Amend NYSE Rule 440H To Conform the Rule With Recent Amendments to Section 31 of the Securities Exchange Act of 1934

January 24, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 9, 2002, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') or ''SEC'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange filed the proposal pursuant to section 19(b)(3)(A) of the Act,[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission.[5] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend NYSE Rule 440H, Transaction Fees, to conform it to Congress' recent amendment of section 31 of the Act.[6] The text of the proposed rule change is available at the NYSE and at the Commission.

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] The NYSE asked the Commission to waive the 30-day operative delay. *See* Rule 19b–4(f)(6)(iii). 17 CFR 240.19b–4(f)(6)(iii).

[6] 15 U.S.C. 78ee.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NYSE included statements concerning the purpose of and basis for its proposal and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Until recently, section 31 of the Act[7] has required the remittance of a fee to the SEC of 1/300 of one percent of the aggregate dollar amount of the sales of securities. Excluded from this requirement is the sale of any bonds, debentures, or other evidences of indebtedness and any sale or class of sales of securities that the SEC may, by rule, exempt from the imposition of this fee.

Congress recently passed the ''Investor and Capital Markets Relief Act'' (''ICMRA''), which amends section 31 of the Act. The ICMRA reduces the fee to $15 per $1 million of the aggregate dollar amount of the sale of securities, effective as of December 28, 2001. The ICMRA provides that the SEC will, twice yearly, determine the amount of any future changes in the fee.

The Exchange proposes to amend NYSE Rule 440H to conform references to the fee amounts to Congress' amendments to section 31 of the Act.[8]

2. Statutory Basis

The Exchange believes that the proposed rule is consistent with the provisions of section 6(b)(5) of the Act[9] that require an Exchange to have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose

[7] *Id.*

[8] *Id.*

[9] 15 U.S.C. 78f(b)(5).

any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

(i) Significantly affect the protection of investors or the public interest;

(ii) impose any significant burden on competition; and

(iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to section 19(b)(3)(A) of the Act [10] and Rule 19b–4(f)(6) thereunder.[11] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

The NYSE has requested that the Commission waive the 30-day operative delay. The Commission finds good cause to waive both the 5-day pre-filing notice requirement and the 30-day operative delay, because such designation is consistent with the protection of investors and the public interest. Acceleration of the operative date will allow the NYSE to immediately conform NYSE Rule 440H to section 31 of the Act. For these reasons, the Commission finds good cause to waive both the 5-day pre-filing requirement and the 30-day operative delay.[12]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to file number SR–NYSE–2002–05 and should be submitted by February 20, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 02–2215 Filed 1–29–02; 8:45 am]

BILLING CODE 8010–01–M

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6).

[12] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[13] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

The Ticket To Work and Work Incentives Advisory Panel Meeting

AGENCY: Social Security Administration (SSA).

ACTION: Notice of meeting.

DATES: February 12, 2002, 10 a.m.–5 p.m.; February 13, 2002, 9 a.m.–5 p.m.; February 14, 2002, 9 a.m.–3 p.m.

ADDRESSES: Omni Shoreham Hotel, 2500 Calvert Street, NW., Washington, DC 20008, Phone: (202) 234–0700, Fax: (202) 265–7972.

SUPPLEMENTARY INFORMATION:

Type of meeting: This is a quarterly meeting open to the public. The public is invited to participate by coming to the address listed above. Public comment will be taken during the quarterly meeting. The public is also invited to submit comments in writing on the implementation of the Ticket to Work and Work Incentives Improvement Act (TWWIIA) of 1999 at any time.

Purpose: In accordance with section 10(a)(2) of the Federal Advisory Committee Act, the Social Security Administration (SSA) announces a meeting of the Ticket to Work and Work Incentives Advisory Panel (the Panel). Section 101(f) of the Public Law 106–170 establishes the Panel to advise the Commissioner of SSA, the President, and the Congress on issues related to work incentives programs, planning and assistance for individuals with disabilities as provided under section 101(f)(2)(A) of the TWWIIA. The Panel is also to advise the Commissioner on matters specified in section 101(f)(2)(B) of that Act, including certain issues related to the Ticket to Work and Self-Sufficiency Program established under section 101(a) of the Act.

Interested parties are invited to attend the meeting. The Panel will use the meeting time to receive briefings, hear presentations, conduct full Panel deliberations on the implementation of TWWIIA, receive public testimony and conduct other business.

The Panel will meet in person commencing on Tuesday, February 12, 2001 from 10 a.m. to 5 p.m.; Wednesday, February 13, 2001 from 9 a.m. to 5 p.m.; and Thursday, February 14, 2001 from 9 a.m. to 3 p.m.

Agenda: The Panel will hold a quarterly meeting. Briefings, presentations, full Panel deliberations and other Panel business will be held Tuesday, Wednesday and Thursday, February 12, 13 and 14, 2002. Topics of discussion may include Ticket Program policy implementation; the Social Security Administration's (SSA's) adequacy of incentive study and 1 for 2 demonstration; and updates from ticket program-related federal partners. Public testimony will be heard in person Wednesday February 13, 2002 from 2 p.m. to 3:30 p.m. and on Thursday February 14, 2002 from 9 a.m. to 10:30 a.m. Members of the public must schedule a timeslot in order to comment. In the event that the public comments do not take up the scheduled time period for public comment, the Panel will use that time to deliberate and conduct other Panel business. Individuals interested in providing testimony in person should contact the Panel staff as outlined below to schedule time slots. Each presenter will be called on by the Chair in the order in which they are scheduled to testify and is limited to a maximum five-minute verbal presentation. Full written testimony on TWWIIA Implementation, no longer than 5 pages, may be submitted in person or by mail, fax or email on an on-going basis to the Panel for consideration.

Since seating may be limited, persons interested in providing testimony at the meeting should contact the Panel staff by e-mailing Kristen M. Breland, at *kristen.m.breland@ssa.gov* or calling (202) 358–6423.

The full agenda for the meeting will be posted on the Internet at http://www.ssa.gov/work/panel/ two weeks before the meeting or can be received in

advance electronically or by fax upon request.

Contact Information: Any requiring information regarding the Panel should contact the TWWIIA Panel staff. Records are being kept of all Panel proceedings and will be available for public inspection by appointment at the Panel office. Anyone requiring information regarding the Panel should contact the Panel staff by:

- Mail addressed to Social Security Administration, Ticket to Work and Work Incentives Advisory Panel Staff, 400 Virginia Avenue, SW., Suite 700, Washington, DC 20024.
- Telephone contact with Kristen Breland at (202) 358–6423.
- Fax at (202) 358–6440.
- E-mail to *TWWIIAPanel@ssa.gov.*

Dated: January 25, 2002.

Deborah M. Morrison,

Designation Federal Officer.

[FR Doc. 02–2366 Filed 1–29–02; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Docket No. RSPA–01–10867; Notice 2]

Pipeline Safety: Petition for Waiver; Williams Gas Pipelines-West

Williams Gas Pipelines-West (or ''Williams'') petitioned the Research and Special Programs Administration (RSPA) for a waiver from compliance with the regulation at 49 CFR 192.611(d) until June 30, 2003. This regulation requires pipeline operators to confirm or revise the maximum allowable operating pressure of certain gas transmission lines within 18 months after population growth changes the classification of the line.

The petition concerns a 1500-foot pipeline segment constructed in 1991 in Utah County, Utah, that changed from Class 2 to Class 3 due to development of a subdivision. The segment is part of the Kern River natural gas transmission line, which runs from Wyoming to the San Joaquin Valley near Bakersfield, California, where the gas is used in the generation of electricity.

The petition indicates the change in classification comes while Williams is undertaking an expansion project on its Kern River line, which it plans to complete in 2003, pending approval by the Federal Energy Regulatory Commission. Rather than replace the 1500-foot segment with new pipe to satisfy § 192.611(d), the petition indicates Williams prefers to relocate the segment to a less populated right-of-way as part of the expansion project. The relocation alternative would result in a single impact to land owners and the environment during the construction.

In response to Williams' petition, we published a notice explaining why granting a waiver from 49 CFR 192.611(d) until June 30, 2003, to allow Williams time to carry out its relocation plan, would not be inconsistent with pipeline safety (Notice 1; 66 FR 59045; Nov. 26, 2001). In that notice, we invited interested persons to submit written comments on the proposed waiver by December 26, 2001. However, we did not receive any comments on the proposed waiver.

In accordance with the foregoing, RSPA, by this order, finds that compliance with § 192.611(d) is unnecessary for the reasons stated in Notice 1 of this proceeding, and that granting Williams' requested waiver would not be inconsistent with pipeline safety. Accordingly, Williams' petition for waiver from compliance with § 192.611(d) is granted until June 30, 2003. As stated in Notice 1, if there is an unforeseen delay in the relocation project, we may extend the June 30, 2003, deadline up to an additional 6 months without further opportunity to comment by publishing a notice of such extension in the **Federal Register**.

Authority: 49 U.S.C. 60118(c); and 49 CFR 1.53.

Issued in Washington, DC on January 24, 2002.

Stacey L. Gerard,

Associate Administrator for Pipeline Safety.

[FR Doc. 02–2211 Filed 1–29–02; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34130]

RailAmerica, Inc.—Control Exemption—Kiamichi Holdings, Inc. and KiamichiRailroad L.L.C.[1]

AGENCY: Surface Transportation Board.

ACTION: Notice of exemption.

SUMMARY: Under 49 U.S.C. 10502, the Board exempts from the prior approval requirements of 49 U.S.C. 11323, *et seq.*, the acquisition by RailAmerica, Inc. (RailAmerica or petitioner) of control of Kiamichi Holdings, Inc., and its subsidiary Class III rail carrier Kiamichi Railroad L.L.C. RailAmerica is a noncarrier holding company that controls two Class II and 23 Class III rail carriers. Petitioner has agreed to acquire the railroad subsidiaries of Kauri, Inc., pursuant to two notices of exemption and this petition for exemption.[2] RailAmerica requests expedited action on the exemption petition. The request is addressed in the Board's decision.

DATES: The exemption will be effective on date of publication. Petitions for reconsideration must be filed by February 14, 2002.

ADDRESSES: Send an original and 10 copies of any pleadings referring to STB Finance Docket No. 34130 to: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423–0001. In addition, send one copy of any pleadings to petitioner's representatives: Gary A. Laakso, *Esq.*, 5300 Broken Sound Blvd., NW, Second Floor, Boca Raton, FL 33487, and Louis E. Gitomer, Esq., 1455 F Street, NW, Suite 225, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar (202) 565–1600. [TDD for the hearing impaired: 1–800–877–8339.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dā 2 Dā Legal, 1925 K Street NW, Suite 405, Washington, DC 20006. Telephone: (202) 293–7776.

Board decisions and notices are available on our Web site at www.stb.dot.gov.

Decided: January 23, 2002.

[1] On December 5, 2001, a protective order was issued in this proceeding. The title reflected the expected participation of West Texas and Lubbock Railroad Company, Inc. (West Texas). Because West Texas will not, in fact, be a party to the transaction, the above title has been revised to reflect that fact.

[2] On December 7, 2001, RailAmerica filed a notice of exemption to acquire control of the Alabama & Gulf Coast Railway L.L.C. *See RailAmerica, Inc.-Control Exemption-New StatesRail Holdings, Inc. and Alabama & Gulf Coast Railway L.L.C.,* STB Finance Docket No. 34128 (STB served Dec. 28, 2001). Also on December 7, RailAmerica filed a notice of exemption to acquire control of Arizona Eastern Railway Company, Eastern Alabama Railway, Kyle Railroad Company, San Joaquin Valley Railroad Company, and SWKR Operating Co. *See RailAmerica, Inc.-Control Exemption-StatesRail Acquisition Corp. and StatesRail, Inc.,* STB Finance Docket No. 34129 (STB served Dec. 28, 2001). Regarding another short line railroad company, RailAmerica filed a notice of exemption on November 28, 2001, to acquire control of ParkSierra Corp. *See RailAmerica, Inc.-Control Exemption-ParkSierra Acquisition Corp. and ParkSierra Corp.,* STB Finance Docket No. 34100 (STB served Dec. 20, 2001).

By the Board, Chairman Morgan and Vice Chairman Burkes.

Vernon A. Williams,

Secretary.

[FR Doc. 02–2258 Filed 1–29–02; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Customs Service

Proposed Collection; Comment Request; Request for Information

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning Request for Information. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before April 1, 2002, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW, Room 3.2C, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW, Room 3.2C, Washington, DC 20229, Tel. (202) 927–1429.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Request for Information.

OMB Number: 1515–0068.

Form Number: Customs Form 28.

Abstract: Customs Form 28 is used by Customs personnel to request additional information from importers when the invoice or other documentation provide insufficient information for Customs to carry out its responsibilities to protect revenues.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Businesses, Individuals, Institutions.

Estimated Number of Respondents: 60,000.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 30,000.

Estimated Total Annualized Cost on the Public: N/A.

Dated: January 24, 2002.

Tracey Denning,

Information Services Group.

[FR Doc. 02–2165 Filed 1–29–02; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

Proposed Collection; Comment Request; Certificate of Compliance for Turbine Fuel Withdrawals

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Certificate of Compliance for Turbine Fuel Withdrawals. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before April 1, 2002, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW, Room 3.2C Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn. Tracey Denning, 1300 Pennsylvania Avenue NW, Room 3.2C, Washington, DC 20229, Tel. (202) 927–1429.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Certificate of Compliance for Turbine Fuel Withdrawals.

OMB Number: 1515–0209.

Form Number: N/A.

Abstract: This information is collected to ensure regulatory compliance for Turbine Fuel Withdrawals to protect revenue collections.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Businesses, Individuals, Institutions.

Estimated Number of Respondents: 20.

Estimated Time Per Respondent: 12 hours.

Estimated Total Annual Burden Hours: 240.

Estimated Total Annualized Cost on the Public: N/A.

Dated: January 24, 2002.

Tracey Denning,

Team Leader, Information Services Group.

[FR Doc. 02–2166 Filed 1–29–02; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

Proposed Collection; Comment Request; Entry of Articles for Exhibition

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning Entry of Articles for Exhibition. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before April 1, 2002, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW., Room 3.2C, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW., Room 3.2C, Washington, DC 20229, Tel. (202) 927–1429.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Entry of Articles for Exhibition.

OMB Number: 1515–0106.

Form Number: N/A.

Abstract: This information is used by Customs to substantiate that the goods imported for exhibit have been approved for entry by the Department of Commerce.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Businesses, Individuals, Institutions.

Estimated Number of Respondents: 40.

Estimated Time Per Respondent: 20 minutes.

Estimated Total Annual Burden Hours: 530.

Estimated Total Annualized Cost on the Public: N/A.

Dated: January 24, 2002.

Tracey Denning,

Team Leader, Information Services Group.

[FR Doc. 02–2167 Filed 1–29–02; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

Proposed Collection; Comment Request; Customs Regulations for Customhouse Brokers

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Customs Regulations for Customhouse Brokers. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before April 1, 2002, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs Service, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW, Room 3.2C, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn. Tracey Denning, 1300 Pennsylvania Avenue NW, Room 3.2C, Washington, DC 20229, Tel. (202) 927–1429.

SUPPLEMENTARY INFORMATION: Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Customs Regulations for Customhouse Brokers.

OMB Number: 1515–0100.

Form Number: N/A.

Abstract: This information is collected to ensure regulatory compliance for Customhouse brokers.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Businesses, Individuals, Institutions.

Estimated Number of Respondents: 500.

Estimated Time Per Respondent: 3 hours.

Estimated Total Annual Burden Hours: 1,500.

Estimated Total Annualized Cost on the Public: $150,000.

Dated: January 24, 2002.

Tracey Denning,

Information Services Group.

[FR Doc. 02–2168 Filed 1–29–02; 8:45 am]

BILLING CODE 4820–02–P

Federal Register

Wednesday,
January 30, 2002

Part II

Federal Trade Commission

16 CFR Part 310
Telemarketing Sales Rule; Proposed Rule

FEDERAL TRADE COMMISSION

16 CFR Part 310

Telemarketing Sales Rule

AGENCY: Federal Trade Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: In this document, the Federal Trade Commission (the ''Commission'' or ''FTC'') issues a Notice of Proposed Rulemaking to amend the FTC's Telemarketing Sales Rule, and requests public comment on the proposed changes. The Telemarketing Sales Rule prohibits specific deceptive and abusive telemarketing acts or practices, requires disclosure of certain material information, requires express verifiable authorization for certain payment mechanisms, sets recordkeeping requirements, and specifies those transactions that are exempt from the Telemarketing Sales Rule.

This document invites written comments on all issues raised by the proposed changes and seeks answers to the specific questions set forth in Section IX of this document. This document also contains an invitation to participate in a public forum, to be held following the close of the comment period, to afford Commission staff and interested parties an opportunity to explore and discuss issues raised during the comment period.

DATES: Written comments will be accepted until March 29, 2002. Notification of interest in participating in the public forum also must be submitted on or before March 29, 2002. The public forum will be held at the Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580, on June 5, 6, and 7, 2002, from 9:00 a.m. until 5:00 p.m.

ADDRESSES: Six paper copies of each written comment should be submitted to the Office of the Secretary, Room 159, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580. To encourage prompt and efficient review and dissemination of the comments to the public, all comments should also be submitted, if possible, in electronic form, on either a 5¼ or a 3½ inch computer disk, with a label on the disk stating the name of the commenter and the name and version of the word processing program used to create the document. (Programs based on DOS are preferred. Files from other operating systems should be submitted in ASCII text format to be accepted.) Individual members of the public filing comments need not submit multiple copies or comments in electronic form.

Alternatively, the Commission will accept papers and comments submitted to the following email address: *tsr@ftc.gov,* provided the content of any papers or comments submitted by email is organized in sequentially numbered paragraphs. All comments and any electronic versions (*i.e.,* computer disks) should be identified as ''Telemarketing Rulemaking—Comment. FTC File No. R411001.'' The Commission will make this document and, to the extent possible, all papers and comments received in electronic form in response to this document available to the public through the Internet at the following address: *www.ftc.gov*.

Notification of interest in participating in the public forum should be submitted in writing, but separate from written comments, to Carole Danielson, Division of Marketing Practices, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580. The public forum will be held at the Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580.

Comments on proposed revisions bearing on the Paperwork Reduction Act should additionally be submitted to: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10102, Washington, DC 20503, ATTN.: Desk Officer for the Federal Trade Commission, as well as to the FTC Secretary at the address above.

FOR FURTHER INFORMATION CONTACT: Catherine Harrington-McBride, (202) 326–2452 (email: *cmcbride@ftc.gov*), Karen Leonard, (202) 326–3597 (email: *kleonard@ftc.gov*), Michael Goodman, (202) 326–3071 (email: *mgoodman@ftc.gov*), or Carole Danielson, (202) 326–3115 (email: *cdanielson@ftc.gov*), Division of Marketing Practices, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

I. Background

A. Telemarketing Consumer Fraud and Abuse Prevention Act

On August 16, 1994, President Clinton signed into law the Telemarketing Consumer Fraud and Abuse Prevention Act (''Telemarketing Act'' or ''the Act'').[1] The Telemarketing Act was the culmination of Congressional efforts during the early 1990's to protect consumers against telemarketing fraud.[2] The purpose of the Act was to combat telemarketing fraud by providing law enforcement agencies with powerful new tools, and to give consumers new protections. The Act directed the Commission, within 365 days of enactment of the Act, to issue a rule prohibiting deceptive and abusive telemarketing acts or practices.

The Telemarketing Act specified, among other things, certain acts or practices the FTC's rule must address. The Act also required the Commission to include provisions relating to three specific ''abusive telemarketing acts or practices:'' (1) A requirement that telemarketers may not undertake a pattern of ''unsolicited telephone calls which the reasonable consumer would consider coercive or abusive of such consumer's right to privacy;'' (2) restrictions on the time of day telemarketers may make unsolicited calls to consumers; and (3) a requirement that telemarketers promptly and clearly disclose in all sales calls to consumers that the purpose of the call is to sell goods or services, and make other disclosures deemed appropriate by the Commission, including the nature and price of the goods or services sold.[3] Section 6102(a) of the Act not only required the Commission to define and prohibit deceptive telemarketing acts or practices, but also authorized the FTC to define and prohibit acts or practices that ''assist or facilitate'' deceptive telemarketing.[4] The Act further directed the Commission to consider including recordkeeping requirements in the rule.[5] Finally, the Act authorized State attorneys general, other appropriate State officials, and private persons to bring civil actions in federal district court to enforce compliance with the FTC's rule.[6]

[1] 15 U.S.C. 6101–6108.

[2] Other statutes enacted by Congress to address telemarketing fraud during the early 1990's include the Telephone Consumer Protection Act of 1991 (''TCPA''), 47 U.S.C. 227 *et seq.*, which restricts the use of automatic dialers, bans the sending of unsolicited commercial facsimile transmissions, and directs the Federal Communications Commission (''FCC'') to explore ways to protect residential telephone subscribers' privacy rights; and the Senior Citizens Against Marketing Scams Act of 1994, 18 U.S.C. 2325 *et seq.*, which provides for enhanced prison sentences for certain telemarketing-related crimes.

[3] 15 U.S.C. 6102(a)(3)(A)–(C).

[4] Examples of practices that would ''assist or facilitate'' deceptive telemarketing under the Rule include credit card laundering and providing contact lists or promotional materials to fraudulent sellers or telemarketers. *See,* 60 FR 43843, 43853 (Aug. 23, 1995) (codified at 16 CFR part 310 (1995)).

[5] 15 U.S.C. 6102(a)(3).

[6] 15 U.S.C. 6103.

B. Telemarketing Sales Rule

Pursuant to the Telemarketing Act, the FTC adopted the Telemarketing Sales Rule, 16 CFR part 310, (''Telemarketing Rule,'' ''the Rule,'' ''TSR,'' or ''original Rule'') on August 16, 1995.[7] The Rule, which became effective on December 31, 1995, requires that telemarketers promptly tell each consumer they call several key pieces of information: (1) the identity of the seller; (2) the fact that the purpose of the call is to sell goods or services; (3) the nature of the goods or services being offered; and (4) in the case of prize promotions, that no purchase or payment is necessary to win.[8] Telemarketers must, in any telephone sales call, also disclose cost and other material information before consumers pay.[9] In addition, telemarketers must have consumers' express verifiable authorization before using a demand draft (or ''phone check'') to debit consumers'' bank accounts.[10] The Rule prohibits telemarketers from calling before 8:00 a.m. or after 9:00 p.m. (in the time zone where the consumer is located), and from calling consumers who have said they do not want to be called by or on behalf of a particular seller.[11] The Rule also prohibits misrepresentations about the cost, quantity, and other material aspects of the offered goods or services, and the terms and conditions of the offer.[12] Finally, the Rule bans telemarketers who offer to arrange loans, provide credit repair services, or recover money lost by a consumer in a prior telemarketing scam from seeking payment before rendering the promised services,[13] and prohibits credit card laundering and other forms of assisting and facilitating deceptive telemarketers.[14]

The Rule expressly exempts from its coverage several types of calls, including calls where the transaction is completed after a face-to-face sales presentation, calls subject to regulation under other FTC rules (*e.g.,* the Pay-Per-Call Rule, or the Franchise Rule),[15] calls that are not in response to any solicitation, calls initiated in response to direct mail, provided certain disclosures are made, and calls initiated in response to advertisements in general media, such as newspapers or television.[16] Lastly, catalog sales are exempt, as are most business-to-business calls, except those involving the sale of office or cleaning supplies.[17]

C. The USA PATRIOT Act of 2001

On Thursday, October 25, 2001, President Bush signed into law the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (''USA PATRIOT Act'') of 2001, Pub. L. 107–56 (Oct. 25, 2001). This legislation contains provisions that have significant impact on the TSR. Specifically, section 1011 of that Act amends the Telemarketing Act to extend the coverage of the TSR to reach not just telemarketing to induce the purchase of goods or services, but also charitable fund raising conducted by for-profit telemarketers for or on behalf of charitable organizations. Because enactment of the USA PATRIOT Act took place after the comment period for the Rule review (described below) closed, the Commission did not address issues relating to charitable fundraising by telemarketers in the Rule review.

Section 1011(b)(3) of the USA PATRIOT Act amends the definition of ''telemarketing'' that appears in the Telemarketing Act, 15 U.S.C. 6106(4), expanding it to cover any ''plan, program, or campaign which is conducted to induce * * * a charitable contribution, donation, or gift of money or any other thing of value, by use of one or more telephones and which involves more than one interstate telephone call * * *''

In addition, section 1011(b)(2) adds a new section to the Telemarketing Act directing the Commission to include new requirements in the ''abusive telemarketing acts or practices'' provisions of the TSR.[18] Section 1011(b)(1) amends the ''deceptive telemarketing acts or practices'' provision of the Telemarketing Act, 15 U.S.C. 6102(a)(2), by specifying that ''fraudulent charitable solicitation'' is to be included as a deceptive practice under the TSR.

The impact of the USA PATRIOT amendments to the Telemarketing Act is discussed more fully in the part of this notice that analyzes § 310.1 of the Rule, which deals with the scope of the Rule's coverage. This notice sets forth a number of proposed changes throughout the text of the TSR to implement the USA PATRIOT amendments. Also, in section IX of this notice, the Commission specifically seeks comment and information about its proposals to conform the TSR to section 1011 of the USA PATRIOT Act.

D. Rule Review and Request for Comment

The Telemarketing Act required that the Commission initiate a Rule review proceeding to evaluate the Rule's operation no later than five years after its effective date of December 31, 1995, and report the results of the review to Congress.[19] Accordingly, on November 24, 1999, the Commission commenced the mandatory review with publication of a **Federal Register** notice announcing that Commission staff would conduct a forum on January 11, 2000, limited to examination of issues relating to the ''do-not-call'' provision of the Rule, and soliciting applications to participate in the forum.[20] Seventeen associations, individual businesses, consumer organizations, and law enforcement agencies, each with an affected interest and an ability to represent others with similar interests, were selected to engage in the Forum's roundtable discussion (''Do-Not-Call'' Forum), which was held on January 11, 2000, at the FTC offices in Washington, DC.[21]

[7] 60 FR 43843.

[8] 16 CFR 310.4(d).

[9] 16 CFR 310.3(a)(1).

[10] 16 CFR 310.3(a)(3).

[11] 16 CFR 310.4(c), and 310.4(b)(1)(ii).

[12] 16 CFR 310.3(a)(2).

[13] 16 CFR 310.4(a)(2)-(4).

[14] 16 CFR 310.3(b) and (c).

[15] 16 CFR 310.6(a)–(c).

[16] 16 CFR 310.6(d)–(f).

[17] 16 CFR 310.2(u) (pursuant to 15 U.S.C. 6106(4) (catalog sales)); 16 CFR 310.6(g) (business-to-business sales). In addition to these exemptions, certain entities including banks, credit unions, savings and loans, companies engaged in common carrier activity, non-profit organizations, and companies engaged in the business of insurance are not covered by the Rule because they are specifically exempt from coverage under the FTC Act. 15 U.S.C. 45(a)(2); *but see,* discussion immediately following concerning the USA PATRIOT Act amendments to the Telemarketing Act. Finally, a number of entities and individuals associated with them that sell investments and are subject to the jurisdiction of the Securities and Exchange Commission or the Commodity Futures Trading Commission are exempt from the Rule. 15 U.S.C. 6102(d)(2)(A); 6102(e)(1).

[18] Specifically, section 1011(b)(2)(d) mandates that the TSR include ''a requirement that any person engaged in telemarketing for the solicitation of charitable contributions, donations, or gifts of money or any other thing of value, shall promptly and clearly disclose to the person receiving the call that the purpose of the call is to solicit charitable contributions, donations, or gifts, and make such other disclosures as the Commission considers appropriate, including the name and mailing address of the charitable organization on behalf of which the solicitation is made.'' Pub. L. 107–56 (Oct. 25, 2001).

[19] 15 U.S.C. 6108.

[20] 64 FR 66124 (Nov. 24, 1999). Comments regarding the Rule's ''do-not-call'' provision, § 310.4(b)(1)(ii), as well as the other provisions of the Rule, were solicited in a later **Federal Register** notice on February 28, 2000. *See* 65 FR 10428 (Feb. 28, 2000).

[21] The selected participants were: AARP, American Teleservices Association, Callcompliance.com, Consumer.net, Direct Marketing Association, Junkbusters, KTW Consulting Techniques, Magazine Publishers Association, National Association of Attonerys General, National Association of Consumer Agency Administrators, National Association of Regulatory

Continued

On February 28, 2000, the Commission published a second notice in the **Federal Register**, broadening the scope of the inquiry to encompass the effectiveness of all the Rule's provisions. This notice invited comments on the Rule as a whole and announced a second public forum to discuss the provisions of the Rule other than the ''do-not-call'' provision.[22] In response to this notice, the Commission received 92 comments from representatives of industry, law enforcement, and consumer groups, as well as from individual consumers.[23] The commenters uniformly praised the effectiveness of the TSR in combating the fraudulent practices that had plagued the telemarketing industry before the Rule was promulgated. They also strongly supported the Rule's continuing role as the centerpiece of federal and State efforts to protect consumers from interstate telemarketing fraud. However, commenters were less sanguine about the effectiveness of the Rule's provisions dealing with consumers' right to privacy, such as the ''do-not-call'' provision and the provision restricting calling times. They also identified a number of areas of continuing or developing fraud and abuse, as well as the emergence of new technologies that affect telemarketing for industry members and consumers alike.

Specifically, commenters opined that the TSR has been successful in reducing many of the abuses that led to the passage of the Telemarketing Act,[24] and that consumer confidence in the industry has increased and complaints about telemarketing practices have decreased dramatically since the Rule became effective.[25] Commenters credited the TSR with these positive developments.[26] Commenters generally agreed that the Rule has been effective in protecting consumers, without unnecessarily burdening the legitimate telemarketing industry.[27] Commenters also agreed that the Rule has been an effective tool for law enforcement, especially because it allows individual States to obtain nationwide injunctive relief, or to collectively file a common federal action against a single telemarketer, thereby creating enforcement avenues not available under State law.[28] Commenters uniformly stressed that it is important to retain the Rule.[29]

Commenters report that, despite the success of the Rule in correcting many of the abuses in the telemarketing industry, complaints about deceptive and abusive telemarketing practices continue to flow into the offices of consumer groups and law enforcement agencies.[30] As will be discussed in greater detail below, many of these complaints suggest that some of the TSR's provisions need to be amended to better address recurring abuses and to reach emerging problem areas.

Following the receipt of public comments, the Commission held a second forum on July 27 and 28, 2000 (''July Forum''), to discuss provisions of the Rule other than the ''do-not-call'' provision. At this forum, which was held at the FTC offices in Washington, DC, sixteen participants representing associations, individual businesses, consumer organizations, and law enforcement agencies engaged in a roundtable discussion of the effectiveness of the Rule.[31]

At both the ''Do-Not-Call'' Forum and the July Forum, the participants were encouraged to address each other's comments and questions, and were asked to respond to questions from Commission staff. The forums were open to the public, and time was reserved to receive oral comments from members of the public in attendance. Several members of the public spoke at each of the forums. Both proceedings were transcribed and placed on the public record. The public record to date, including the comments and the forum transcripts, has been placed on the Commission's website on the Internet.[32] Based on the record developed during the Rule review proceeding, as well as the Commission's law enforcement experience, the Commission has determined to retain the Rule, but proposes to amend it.

D. Notice of Proposed Rulemaking

By this document, the Commission is proposing revisions to the TSR in order to ensure that consumers receive the protections that the Telemarketing Act, as amended, mandated. The proposed changes to the Rule are made pursuant to the rule review requirements of the Telemarketing Act,[33] and pursuant to the rulemaking authority granted to the Commission by that Act to protect consumers from deceptive and abusive practices,[34] including practices that may be coercive or abusive of the consumer's interest in protecting his or her privacy.[35] As discussed in detail below, the Commission believes the proposed modifications are necessary to ensure that the Rule fulfills this statutory mandate. As noted, the Commission has proposed changes throughout the Rule pursuant to section 1011 of the USA PATRIOT Act. The Commission invites written comment on the questions in Section IX to assist the Commission in determining whether the proposed modifications strike the appropriate balance, maximizing consumer protections while avoiding the imposition of unnecessary compliance burdens on the legitimate telemarketing industry.

Utility Commissioners, North American Securities Administrators Association, National Consumers League, National Federation of Nonprofits, National Retail Federation, Private Citizen, and Promotion Marketing Association. References to the ''Do-Not-Call'' Forum transcript are cited as ''DNC Tr.'' followed by the appropriate page designation.

[22] 65 FR 10428 (Feb. 28, 2000). The Commission extended the comment period from April 27, 2000, to May 30, 2000. 65 FR 26161 (May 5, 2000).

[23] A list of the commentes, and the acronyms used to identify each commenter in this Notice, is attached as Appendix A. References to comments are cited by the commenter's acronym followed by the appropriate page designation.

[24] For example, complaints about ''recovery'' schemes declined dramatically, from a number 3 ranking in 1995 to a number 25 ranking in 1999, while complaints about credit repair have remained at a relatively low level since 1995 (steadily ranking about number 23 or 24 in terms of number of complaints received by the National Fraud Information Center (''NFIC'')). NCL at 11. Unfortunately, complaints about advance fee loan schemes rose from a number 15 ranking in 1995 to the number 2 ranking in 1998, with about 80% of the advance fee loan companies reported to NFIC located in Canada. NCL at 12.

[25] ATA at 6 (consumers now have increased comfort with the telemarketing industry because of the TSR); ATA at 4–5 (according to NAAG, telemarketing complaints declined from the top consumer complaint in 1995 to number 10 in the first year that the Rule was in effect); KTW at 3 (TSR has added value, respect, and credibility to industry); MPA at 5–7 (complaints about magazine sales have decreased); NAA at 2; NCL at 2–3 (reports to NFIC of telemarketing fraud have decreased over the last five years from 15,738 in 1995 to 4,680 in 1999).

[26] ATA at 4–5; MPA at 5–7; NAA at 2.

[27] AARP at 2; ARDA at 2; ATA at 3–5; Bell Atlantic at 2; DMA at 2; ERA at 2, 6; Gardner at 1; ICFA at 1; KTW at 1; LSAP at 1; MPA at 4–6; NAA at 1–2; NASAA at 1; NACAA at 1; NCL at 2, 17 PLP at 1; Texas at 1; Verizon at 1.

[28] AARP at 2; MPA at 4, 6; NAAG at 1; NACAA at 1; NASAA at 1; NCL at 2; Texas at 1.

[29] AARP at 2; ARDA at 2; ATA at 3–5; Bell Atlantic at 2; DMA at 2; ERA at 2, 6; Gardner at 1; ICFA at 1; KTW at 1; LSAP at 1; MPA at 4–6; NAA at 1–2; NACAA at 1; NASAA at 1; NCL at 2, 17; PLP at 1; Texas at 1; Verizon at 1.

[30] *See, e.g.,* LSAP at 2; NAAG at 4, 10–11; NCL at 5–6, 10, 15–16.

[31] The selected participants were: AARP, ATA, DMA, DSA, ERA, Junkbusters, MPA, NAAG, NACAA, NACHA, NCL, NRF, PLP, Private Citizen, Promotion Marketing Association, and Verizon. References to the July Forum are cited as ''Rule Tr.'' followed by the appropriate page designation.

[32] The electronic portions of the public record can be found at *www.ftc.gov/bcp/rulemaking/tsr/tsr-review.htm*. The full paper record is available in Room 130 at the FTC, 600 Pennsylvania Avenue, N.W., Washington, DC 20580, telephone number: 1–877–FTC–HELP (1–877–382–4357).

[33] 15 U.S.C. 6108.

[34] 15 U.S.C. 6102(a)(1) and (a)(3).

[35] 15 U.S.C. 6102(a)(3)(A).

II. Overview

A. Changes in the Marketplace

Since the Rule was promulgated, the marketplace for telemarketing has changed in significant ways that impact the effectiveness of the TSR. The proposed amendments to the TSR, therefore, attempt to respond to and reflect these changes in the marketplace.

One of the changes in the way telemarketing is conducted relates to refinements in data collection and target marketing techniques that allow sellers to pinpoint with greater precision which consumers are most likely to be potential customers.[36] These developments offer the obvious benefit of making telemarketing more effective and efficient for sellers. However, enhanced data collection and target marketing also have led to increasing public concern about what is perceived to be increasing encroachment on consumers' privacy. These privacy concerns initially focused on the Internet. However, the privacy debate has expanded to include all forms of direct marketing. Consumers have demanded more power to determine who will have access to their time and attention while they are in their homes.[37] Indeed, a majority of the comments received during the Rule review focused on issues relating to consumer privacy and consumer sovereignty, rather than on fraudulent telemarketing practices.

One result of the call for greater consumer empowerment on issues of privacy has been a greater public and governmental focus on the ''do-not-call'' issue.[38] Related to the ''do-not-call'' issue is the proliferation of technologies, such as caller identification service, that assist consumers in managing incoming calls to their homes.[39] Similarly, privacy advocates have raised concerns about technologies used by telemarketers (such as predictive dialers and deliberate blocking of Caller ID information) that hinder consumers' attempts to screen calls or make requests to be placed on a ''do-not-call'' list.

A second change in the marketplace involves payment methods available to consumers and businesses. The growth of electronic commerce and payment systems technology has led, and likely will continue to lead, to new forms of payment and further changes in the way consumers pay for goods and services they purchase through telemarketing. Examples of emerging payment devices include stored value cards and a host of Internet-based payment systems.[40] In addition, billing and collection systems of telephone companies, utilities, and mortgage lenders are becoming increasingly available to a wide variety of vendors of all types of goods and services.[41]

The type of payment device used by a consumer to pay for goods and services purchased through telemarketing determines the level of protection that a consumer has in contesting unauthorized charges and, in some instances, the kinds of dispute resolution proceedings available to the consumer should the goods or services be unsatisfactory. Of all the payment devices available to consumers to pay for telemarketing transactions, only credit cards afford limited liability for unauthorized charges and dispute resolution procedures pursuant to federal law.[42] Therefore, because newly available payment methods in many instances are relatively untested, and may not provide protections for consumers from unauthorized charges, consumers may need additional protections—and vendors heightened scrutiny—when using these new payment methods.

Finally, over the past five years, the practice of preacquired account telemarketing—where a telemarketer acquires the customer's billing information prior to initiating a telemarketing call or transaction—has increasingly resulted in complaints from consumers about unauthorized charges. Billing information can be preacquired in a variety of ways, including from a consumer's financial institution or utility company, from the consumer in a previous transaction, or from another source.[43] In many instances, the consumer is not involved in the transfer of the billing information and is unaware that the seller possesses it during the telemarketing call.[44]

The related practice of ''up-selling'' has also become more prevalent in telemarketing.[45] Through this technique, customers are offered additional items for purchase after the completion of an initial sale. In the majority of up-selling scenarios, the

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[36] *See, e.g.,* DNC Tr. at 35–36; Rule Tr. at 70–81; ATA at 9 (industry goes to great lengths to identify only those consumers who are likely purchasers of their products). *See also* Robert O'Harrow, *A Hidden Toll on Free Calls: Lost Privacy—Not even unlisted numbers protected from marketers.* Washington Post, p. A1 (Dec. 19, 1999); Robert O'Harrow, *Horning In On Privacy: As Databases Collect Personal Details Well Beyond Credit Card Numbers, It's Time to Guard Yourself,* Washington Post, p. H1 (Jan. 2, 2002); *Dialing for Dollars: How to be Rid of Telemarketers,* Orlando Sentinel (Sept. 29, 1999), p. E2 (describing process of data mining and types of information gleaned by list brokers for sale to telemarketing firms): Carol Pickering, *They're Watching You: Data-Mining firms are watching your every move—and predicting the next one,* Business 2.0 (Feb. 2000), p. 135; and, *Selling is Getting Personal,* Consumer Reports, p. 16 (Nov. 2000).

[37] *See, e.g.,* Bennett at 1; Biagiotti at 1; Card at 1; Conway at 1; Gilchrist at 1; Gindin at 1; Heagy at 1; Holloway at 1; Kelly at 1; Lee at 1; Runnels at 1; Ver Steegt at 1; and DNC Tr. at 83–130. *See also* O'Harrow, ''A Hidden Toll'' at A1 and ''Horning In'' at H1; and Gene Gray, *The Future of the Teleservices Industry—Are You Aware?,* 17 Call Ctr. Solutions (Jan. 1999) p. 90.

[38] *See generally* DNC Tr. See *also* George Raine, *Drive to Ban Unsolicited Sales Calls; Consumer Activist's Initiative Would Bar Unwanted E-mail, Telemarketing,* The San Francisco Examiner, p.B–1 (Dec. 21, 1999). *See also* the discussion below of the proposed revision to the ''do-not-call'' provision, § 310.4(b)(1)(iii).

[39] *See, e.g.,* DNC Tr. at 83–130. *See also*, Donna Halvorsen, *Home defense against telemarketing: Consumers reaching out to services that screen telemarketers,* Star Tribune (Minneapolis), p. 1A (July 17, 1999); Stephanie N. Mehta, *Playing Hide-and-Seek by Telephone*, Wall Street Journal, p. B–1 (Dec. 13, 1999); Stanley A. Miller II, *Privacy Manager Thwarts Telemarketers. Ameritech says 7 out of 10 ''junk'' calls do not get through to customers,* Milwaukee Journal, p. 1 (Aug. 10, 1999); and Ed Russo, *Phone Devices Put Chill on Cold Calls Screening, ID Altering Telemarketing,* Omaha World-Herald, p. 1a (Sept. 26, 1999).

[40] *See* NCL at 5. A more complete discussion of these new payment methods is included below in the section discussing express verifiable authorization, § 310.3(a)(3).

[41] *Id.*; NAAG at 10; Rule Tr. 111; 254–257.

[42] The Fair Credit Billing Act, 15 U.S.C. 1666 *et seq.* provides customers with dispute resolution rights when they believe a credit card charge is inaccurate. Debit cards are not similarly protected by federal law; however, Visa offers '''$0 liability' protection in cases of fraud, theft or unauthorized card usage if reported within two business days of discovery,'' capping liability at $50 after that. *See www.visa.com/ct/debit/main.html.* Similarly, Mastercard offers a zero liability policy when loss, theft, or unauthorized use is reported within 24 hours of discovery, and otherwise caps liability at $50 ''in most circumstances.'' *See www.mastercard.com/general/zero__liability.html.* In addition, the Commission's 900-Number Rule specifies dispute resolution procedures for disputes involving pay-per-call transactions. 16 CFR 308.7.

[43] *See* NAAG at 10. The review of the TSR was completed before the implementation of the FTC's Privacy Rule, 16 CFR Part 313, mandated by the Gramm-Leach-Bliley Act. 15 USC 6801–6810. The Privacy Rule prohibits financial institutions from disclosing, other than to a consumer reporting agency, customer account numbers or similar forms of access to any non-affiliated third party for use in direct marketing, including telemarketing. 16 CFR 313.12(a).

[44] *Id.*

[45] *See generally* Rule Tr. at 95–99, 107–111, 176–177. For the purposes of this Notice, the Commission intends the term ''up-selling'' to mean any instance when, after a company captures credit card, or other similar account, data to close a sale, it offers the customer a second product or service. For example, a consumer might initiate an inbound telemarketing call in response to a direct mail solicitation for a given product, and, after making a purchase, be asked if he or she would be interested in another product or service offered by the same or another seller. Sometimes the further solicitation is made by the same telemarketer, and sometimes the call is transferred to a different telemarketer. When the product or service is offered by the same seller, the practice is called internal up-selling; when a second seller is involved, the practice is termed external up-selling.

seller or telemarketer already has received the consumer's billing information, either from the consumer or from another source. When the consumer is unaware that the seller or telemarketer already has his or her billing information, or that this billing information will be used to process a charge for goods or services offered in an ''up-sell,'' the most fundamental tool consumers have for controlling commercial transactions—*i.e.,* withholding the information necessary to effect payment unless and until they have consented to buy—is ceded, without the consumers' knowledge, to the seller before the sales pitch ever begins.

Cognizant of these changes to the marketplace, and their potentially deleterious effect on consumers, the Commission proposes to amend the TSR.

B. Summary of Proposed Changes to the Rule

The highlights of the Commission's proposal to amend the TSR are summarized below. In brief, the Commission proposes:

- To supplement the current company-specific ''do-not-call'' provision with an additional provision that will empower a consumer to stop calls from all companies within the FTC's jurisdiction by placing his or her telephone number on a central ''do-not-call'' registry maintained by the FTC;
- To permit a consumer who places his or her telephone number on the central ''do-not-call'' registry to receive telemarketing sales calls from an individual company to whom the consumer has provided his or her express verifiable authorization to make telemarketing calls to his or her telephone.
- To modify § 310.3(a)(3) to require express verifiable authorization for all transactions in which the payment method lacks dispute resolution protection or protection against unauthorized charges similar or comparable to those available under the Fair Credit Billing Act and the Truth in Lending Act.
- To delete § 310.3(a)(3)(iii), the provision allowing a telemarketer to obtain express verifiable authorization by sending written confirmation of the transaction to the consumer prior to submitting the consumer's billing information for payment;
- To require, in the sale of credit card protection, the disclosure of the legal limits on a cardholder's liability for unauthorized charges;
- To prohibit misrepresenting that a consumer needs offered goods or services in order to receive protections he or she already has under 15 U.S.C. 1643 (limiting a cardholder's liability for unauthorized charges on a credit card account);
- To mandate, explicitly, that all required disclosures in § 310.3(a)(1) and § 310.4(d) be made truthfully;
- To expand upon the current prize promotion disclosures to include a statement that any purchase or payment will not increase a consumer's chances of winning;
- To prohibit the practices of receiving any consumer's billing information from any third party for use in telemarketing, or disclosing any consumer's billing information to any third party for use in telemarketing;
- To prohibit additional practices: blocking or otherwise subverting the transmission of the name and/or telephone number of the calling party for caller identification service purposes; and denying or interfering in any way with a consumer's right to be placed on a ''do-not-call'' list;
- To narrow certain of the Rule's exemptions;
- To clarify that facsimile transmissions, electronic mail, and other similar methods of delivery are direct mail for purposes of the direct mail exemption; and
- To modify various provisions throughout the Rule to effectuate expansion of the Rule's coverage to include charitable solicitations, pursuant to Section 1011 of the USA PATRIOT Act.

III. Analysis of Comments and Discussion of Proposed Revisions

The proposed amendments to the Rule do not alter § 310.7 (Actions by States and Private Persons), or § 310.8 (Severability).

A. Section 310.1—Scope of Regulations in This Part

The amendment of the Telemarketing Act by section 1011 of the USA PATRIOT Act is reflected in this section of the TSR. Section 310.1 of the proposed Rule states that ''this part of the CFR implements the Telemarketing Act,[46] as amended by the USA PATRIOT Act.''

During the comment period that occurred prior to enactment of the USA PATRIOT Act, several commenters recommended that the Rule's reach be expanded or clarified.[47] The impact of the USA PATRIOT Act amendments on the scope of coverage of the TSR, the commenters' proposals, and the Commission's reasoning in accepting or rejecting the commenters' proposals, are discussed below.

Effect of the USA PATRIOT Act. As noted above, section 1011(b)(3) of the USA PATRIOT Act amends the definition of ''telemarketing'' that appears in the Telemarketing Act, 15 U.S.C. 6306(4), by inserting the underscored language:

> The term ''telemarketing'' means a plan, program, or campaign which is conducted to induce purchases of goods or services *or a charitable contribution, donation, or gift of money or any other thing of value,* by use of one or more telephones and which involves more than one interstate telephone call * *

In addition, Section 1011(b)(2) adds a new section to the Telemarketing Act requiring the Commission to include in the ''abusive telemarketing acts or practices'' provisions of the TSR:

> a requirement that any person engaged in telemarketing for the solicitation of charitable contributions, donations, or gifts of money or any other thing of value, shall promptly and clearly disclose to the person receiving the call that the purpose of the call is to solicit charitable contributions, donations, or gifts, and make such other disclosures as the Commission considers appropriate, including the name and mailing address of the charitable organization on behalf of which the solicitation is made.

Finally, section 1011(b)(1) amends the ''deceptive telemarketing acts or practices'' provision of the Telemarketing Act, 15 U.S.C. 6102(a)(2), by inserting the underscored language:

> The Commission shall include in such rules respecting deceptive telemarketing acts or practices a definition of deceptive telemarketing acts or practices which *shall include fraudulent charitable solicitations and* which may include acts or practices of entities or individuals that assist or facilitate deceptive telemarketing, including credit card laundering.

Notwithstanding its amendment of these provisions of the Telemarketing Act, neither the text of section 1011 nor its legislative history suggest that it amends Sections 6105(a) of the Telemarketing Act—the provision which incorporates the jurisdictional limitations of the FTC Act into the Telemarketing Act and, accordingly, the TSR. Section 6105(a) states:

> Except as otherwise provided in sections 6102(d) (with respect to the SEC), 6102(e) (Commodity Futures Trading Commission), 6103 (state attorney general actions), and 6104 (private consumer actions) of this title, this chapter shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. § 41 et seq.).

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[46] 15 U.S.C. 6101–6108. The Telemarketing Act was amended by the USA PATRIOT Act on October 25, 2001. Pub. L. 107–56 (Oct. 25, 2001).

[47] *See, e.g.,* DMA at 4; KTW at 4; LSAP at 1; NAAG at 19; NACAA at 2; NCL at 5, 7, 10; Telesource at 4.

Consequently, no activity which is outside of the jurisdiction of that Act shall be affected by this chapter. (Emphasis added.)[48]

One type of ''activity which is outside the jurisdiction'' of the FTC Act, as interpreted by the Commission and federal court decisions, is that of non-profit entities. Sections 4 and 5 of the FTC Act, by their terms, provide the Commission with jurisdiction only over persons, partnerships or ''corporations organized to carry on business for their own profit or that of their members.''[49]

Reading the amendments to the Telemarketing Act effectuated by section 1011 of the USA PATRIOT Act together with the unchanged sections of the Telemarketing Act compels the conclusion that for-profit entities that solicit charitable donations now must comply with the TSR, although the Rule's applicability to charitable organizations themselves is unaffected.[50] The USA PATRIOT Act brings the Telemarketing Act's jurisdiction over charitable solicitations in line with the jurisdiction of the Commission under the FTC Act, by expanding the Rule's coverage to include not only the sale of goods or services but also charitable solicitations by for-profit entities on behalf of nonprofit organizations.[51]

Commenters' Proposals. A number of commenters urged the expansion of the Rule's scope beyond its current boundaries. For example, LSAP strongly suggested that the Commission amend the Rule to provide additional protection for consumers in light of the convergence of the banking, insurance, and securities industries, noting that this phenomenon has resulted in increased sharing of information between these entities, including customers' billing information.[52] Similarly, NCL noted that distinctions between common carriers and other vendors are becoming less relevant as deregulation, detariffing, and mergers have led to increased competition among all types of entities to provide similar products and services.[53] NCL urged that consumers receive the same protections in all commercial telemarketing, regardless of the type of entity involved.[54]

The jurisdictional reach of the Rule is set by statute, and the Commission has no authority to expand the Rule beyond those statutory limits. Thus, absent amendments to the FTC Act, the Commission is limited with regard to any additional protections it might provide in response to acts and practices resulting from the convergence of entities that are otherwise exempt from the Commission's jurisdiction.

In a similar vein, some commenters urged the Commission to clarify the Rule's applicability to non-profit entities.[55] As explained above, although section 1011 of the USA PATRIOT Act expanded the reach of the TSR by enlarging the definition of ''telemarketing'' to encompass not only calls made to induce purchases of goods or services, but also those to solicit charitable contributions, it did not change the fact that the Telemarketing Act and the TSR do not apply to activities excluded from the FTC's reach by the FTC Act.

It should be noted, however, that although the Commission's jurisdiction is limited with respect to the entities exempted by the FTC Act, the Commission has made clear that the Rule does apply to any third-party telemarketers those entities might use to conduct telemarketing activities on their behalf.[56] As the Commission stated when it promulgated the Rule, ''[t]he Final Rule does not include special provisions regarding exemptions of parties acting on behalf of exempt organizations; where such a company would be subject to the FTC Act, it would be subject to the Final Rule as well.''[57]

NACAA suggested that the Commission clarify that the Rule applies to international calls made by telemarketers located outside the United States who call consumers within the United States. The Commission believes that its enforcement record leaves no doubt that sellers or telemarketers located outside the United States are subject to the Rule if they telemarket their goods or services to U.S. consumers.[58]

NCL and KTW suggested that the complementary use of the Internet and telephone technologies necessitates

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[48] Section 6105(b) reinforces the point made in Section 6105(a), as follows:

The Commission shall prevent any person from violating a rule of the Commission under section 6102 of this title in the same manner, by the same means, and *with the same jurisdiction,* powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq. were incorporated into and made a part of this chapter. Any person who violates such rule shall be subject to the penalties and entitled to the same privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and *with the same jurisdiction,* power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this chapter. (Emphasis added.)

[49] Section 5(a)(2) of the FTC Act states: ''The Commission is hereby empowered and directed to prevent persons, partnerships, or corporations * * * from using unfair or deceptive acts or practices in or affecting commerce.'' 15 U.S.C. 45(a)(2). Section 4 of the Act defines ''corporation'' to include: ''any company, trust, so-called Massachusetts trust, or association, incorporated or unincorporated, *which is organized to carry on business for its own profit or that of its members* * * *'' 15 U.S.C. 44 (emphasis added).

[50] A fundamental tenet of statutory construction is that ''a statute should be read as a whole, * * * and that provisions introduced by the amendatory Act should be read together with the provisions of the original section that were * * * left unchanged * * * as if they had been originally enacted as one section.'' Sutherland Stat. Constr. § 22.34, p. 297 (5th ed)., *citing, inter alia, Brothers* v. *First Leasing,* 724 F.2d 789 (9th Cir. 1984); *Republic Steel Corp.* v. *Costle,* 581 F.2d 1228 (6th Cir. 1978); *American Airlines, Inc.,* v. *Remis Indus., Inc.*, 494 F.2d 196 (2d Cir. 1974); *Kirchner* v. *Kansas Turnpike Auth.,* 336 F.2d 222 (10th Cir. 1964); *National Center for Preservation Law* v. *Landrieu,* 496 F. Supp. 716 (D. SC. 1980); *Conoco, Inc.* v. *Hodel,* 626 F. Supp. 287 (D. Del. 1986); *Palardy* v. *Horner,* 711 F. Supp. 667 (D. Mass. 1989). Thus, in constructing a statute and its amendments, ''[e]ffect is to be given to each part, and they are to be interpreted so that they do not conflict.'' *Id.*

[51] While First Amendment protection for charities extend to their for-profit solicitors, *e.g., Riley* v. *Nat'l Fed. of the Blind,* 487 U.S. 781 (1988), this narrowly tailored proposed rule furthers government interests that justify the regulation. One such interest is prevention of fraud. *E.g., Sec. of State of Maryland* v. *Joseph H. Munson Co.,* 467 U.S. 947, 969 n.16 (1984); *Telco Communications, Inc.* v. *Carbaugh,* 885 F.2d 1231,1232 (4th Cir. 1989), *cert. denied,* 495 U.S. 904 (1990). Another is protection of home privacy. *See, e.g., Frisby* v. *Schultz,* 487 U.S. 474, 484 (1988) (targeted picketing around a home); *Watchtower Bible and Tract Society of New York, Inc.* v. *Village of Stratton, Ohio*, 240 F.3d 553 (6th Cir.), *cert. granted on other grounds,* __U.S.__ (2001) (upholding law, based on both privacy and fraud grounds, forbidding canvassing of residents who filed a No Solicitation Form with mayor's office).

[52] *See* LSAP at 1.

[53] *See* NCL at 4–5, 7, 15.

[54] *Id.* at 5, 15. NCL also raised concerns about ''cramming,'' which refers to the practice of placing unauthorized charges on a telephone subscriber's telephone bill. *Id.* at 7. This practice is being considered in connection with the review of the Commission's Pay-Per-Call Rule, *see,* 63 FR 58524, (Oct. 30, 1998); thus, it need not be treated in the context of the TSR.

[55] NAAG at 19; NACAA at 2; NFN at 1.

[56] For example, although the Rule does not apply to the activities of banks, savings and loan institutions, certain federal credit unions, or to the business of insurance to the extent that such business is regulated by State law, any non-exempt telemarketer calling on behalf of one of these entities would be covered by the Rule. *See* 60 FR at 43843; FTC/Direct Mktg. Ass'n., *Complying with the Telemarketing Sales Rule* (Apr. 1996), p. 12.

[57] 60 FR at 43843. This discussion also addresses NACAA's request that the Commission clarify that it has jurisdiction over telemarketing activities involving the switching of consumers' long-distance service. NACAA at 2. The TSR covers the telemarketing of long-distance service to the extent that the telemarketing is conducted by entities that are subject to the FTC Act.

[58] *See, e.g., FTC* v. *Win USA,* No. C98–1614Z (W.D. Wash. filed Nov. 13, 1998); *FTC* v. *Pacific Rim Pools Int'l,* No. C97–1748, (W.D. Wash. filed Nov. 7, 1997) (Order for Permanent Injunction and Final Judgment entered on Jan. 12, 1999); *FTC* v. *The Tracker Corp. of America,* No. 1:97–CV–2654–JEC (N.D. Ga. filed Sept. 11, 1997); *FTC* v. *9013–0980 Quebec, Inc.,* No. 1:96 CV 1567 (N.D. Ohio filed July 18, 1996); and *FTC* v. *Ideal Credit Referral Svcs., Ltd.,* No. C96–0874, (W.D. Wash. filed June 5, 1996).

broadening the scope of the Rule to cover online solicitations.[59] In the original rulemaking, the Commission stated that it lacked sufficient information to support coverage of online services under the Rule,[60] but noted that such media were subject to the Commission's jurisdiction under the FTC Act. Indeed, since 1995, the Commission has brought more than 200 actions against entities who have used the Internet to defraud consumers.[61]

The Commission believes that the issue of whether there is a need for standards for Internet or online advertising and marketing is distinct from the issues relevant to telemarketing. E-commerce issues are best considered within the specific context of business practices in the realm of electronic commerce. In fact, the Commission has begun considering these issues by conducting an inquiry on how to apply its rules and guides to online activities, and issuing a staff working paper that provides guidelines for appropriate disclosures when marketing online.[62] The Commission believes that the body of case law that has been developed on Internet fraud and deception, coupled with its published business education materials[63] for online advertising disclosures, provide a developing source of guidance for promoting and marketing on the Internet.

B. Section 310.2—Definitions

The Commission received comments on several of the Rule's definitions. Each suggested change and the Commission's reasoning in accepting or rejecting that change is discussed below.

The proposed Rule retains the following definitions from the original Rule unchanged, apart from renumbering: ''acquirer,'' ''attorney general,'' ''cardholder,'' ''Commission,'' ''credit,'' ''credit card,'' ''credit card sales draft,'' ''credit card system,'' ''customer,'' ''investment opportunity,'' ''person,'' ''prize,'' ''prize promotion,'' ''seller,'' and ''State.''

In addition, as discussed in detail below, the Commission proposes modifying the definition of ''outbound telephone call,'' and also proposes adding several new definitions: ''billing information,'' ''caller identification service,'' ''express verifiable authorization,'' ''Internet services,'' and ''Web services.''

Further, in order to implement the amendments to the Telemarketing Act made by section 1011 of the USA PATRIOT Act, the Commission proposes adding certain definitions to the Rule, and modifying others. Section 1011(b)(3) of the USA PATRIOT Act amends the definition of ''telemarketing'' in the Telemarketing Act, 15 U.S.C. 6306(4), by inserting the underscored language:

> The term ''telemarketing'' means a plan, program, or campaign which is conducted to induce purchases of goods or services *or a charitable contribution, donation, or gift of money or any other thing of value,* by use of one or more telephones and which involves more than one interstate telephone call * * * (emphasis added).

The proposed Rule's definition of ''telemarketing'' incorporates this change. To fully implement this definitional change, the proposed Rule adds definitions of the terms ''charitable contribution'' and ''donor,'' discussed below. In addition, the existing definition of ''telemarketer'' requires modification to reflect the expanded reach of the Rule to cover telephone solicitations of charitable contributions pursuant to the USA PATRIOT Act. Accordingly, the definition of ''telemarketer'' now includes the analogous phrase ''or donor'' following each appearance of the term ''customer'' or ''consumer.'' Similarly, in two of the new proposed definitions, ''billing information,'' and ''express verifiable authorization,'' the analogous phrase ''or donor'' has also been included following each appearance of the terms ''customer'' or ''consumer.''

Another proposed global change necessitated by the USA PATRIOT Act is the modification of several of the Rule's existing definitions to reflect the expansion of the Rule's coverage to include the solicitation via telemarketing of ''charitable contributions.'' The affected definitions, ''material,'' ''merchant,'' ''merchant agreement,'' and ''outbound telephone call,'' now include the analogous phrase ''or charitable contributions'' following each occurrence of the phrase ''goods or services.''

Section 310.2(c)—''Billing information''

The Commission proposes adding a definition of ''billing information.'' This term comes into play in proposed § 310.3(a)(3), which would add ''billing information'' to the items that must be recited in obtaining a consumer's express verifiable authorization. It is also implicated in proposed § 310.4(a)(5), which would prohibit the abusive practices of receiving any consumer's billing information from any third party for use in telemarketing, or disclosing any consumer's billing information to any third party for use in telemarketing.

As explained further below, in the section discussing proposed changes to § 310.3(a)(3), the Commission proposes to require that ''billing information'' be recited as part of the process of obtaining a consumer's or donor's express verifiable authorization. Under the original Rule, if the telemarketer opted to seek oral authorization for a demand draft, the Rule required that the telemarketer tape record the customer's oral authorization, as well as the provision of the following information: the number, date(s) and amount(s) of payments to be made, the date of authorization, and a telephone number for customer inquiry that is answered during normal business hours. The proposed Rule would expand the express verifiable authorization requirement to other payment methods, and would add to this list of disclosures ''billing information,'' *i.e.,* the identification of the consumer's or donor's specific account and account number to be charged in the particular transaction, to ensure that consumers and donors know which of their accounts will be billed. A definition of ''billing information'' would clarify sellers' and telemarketers' obligations under this proposed revision.

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[59] *See* KTW at 4; NCL at 7.

[60] 60 FR at 30411.

[61] Included among the FTC's enforcement actions against Internet fraud and deception are cases attacking unfair and deceptive use of ''dialer programs.'' NCL expressed concern about these programs, which are downloadable software programs that consumers access via the Internet. Once a dialer program is downloaded, it disconnects a consumer's computer modem from the consumer's usual Internet service provider, dials an international phone number in a country with a high per-minute telephone rate, and reconnects the consumer's modem to the Internet from some overseas location, typically opening at an adult website. Line subscribers—the consumers responsible for paying phone charges on the telephone lines—then begin incurring charges on their phone lines for the remote connection to the Internet, typically at the rate of about $4.00 per minute. The charges for the Internet-based adult entertainment are represented on the consumer's phone bill as international telephone calls. Under its Section 5 authority, the Commission has brought cases against videotext providers who use these dialer programs in an unfair or deceptive manner. *See, e.g., FTC* v. *Hillary Sheinkin,* No. 2–00–3636–18 (D.S.C. filed Nov. 18, 2000); *FTC* v. *Ty Anderson,* No. C00–1843P (W.D. Wash. filed Oct. 27, 2000); *FTC* v. *Verity Int'l, Ltd.,* No. 7422 (S.D.N.Y. filed Oct. 2, 2000); *FTC* v. *Audiotex Connection, Inc.,* No. 97–0726 (E.D.N.Y filed Feb. 13, 1997).

[62] 63 FR 24996 (May 6, 1998) (public comments and the workshop transcript for the proceeding are available at *www.ftc.gov/bcp/rulemaking/elecmedia/index.htm); FTC, Dot Com Disclosures: Information About Online Advertising* (Staff Working Paper, May, 2000). *See also,* FTC, *Advertising and Marketing on the Internet: Rules of the Road* (September, 2000), a guide to comlying with FTC rules and guides when advertising and marketing on the Internet.

[63] *See* FTC, *Dot Com Disclosures;* FTC, *Advertising and Marketing on the Internet.*

As explained in the section discussing proposed § 310.4(a)(5)—which would prohibit receiving from any person other than the consumer or donor for use in telemarketing any consumer's or donor's ''billing information,'' or disclosing any such ''billing information'' to any person for use in telemarketing—the inclusion of this provision banning trafficking in ''billing information'' makes it necessary to provide in the Rule a definition of that term. The proposed Rule defines ''billing information'' as any data that provides access to a consumer's or donor's account, such as a credit card, checking, savings, share or similar account, utility bill, mortgage loan account, or debit card. The Commission intends this term to include information such as a credit or debit card number and expiration date, bank account number, utility account number, mortgage loan account number, customer's or donor's date of birth or mother's maiden name, and any other information used as proof of authorization to effect a charge against a person's account.

Section 310.2(d)—''Caller Identification Service''

The Commission proposes adding a definition of ''caller identification service.'' As described, below, in the discussion of § 310.4(a)(6), the Commission proposes specifying that it is an abusive practice to block, circumvent, or alter the transmission of, or direct another person to block, circumvent, or alter the transmission of, the name and/or telephone number of the calling party for caller identification service purposes, provided that it shall not be a violation to substitute the actual name of the seller and the seller's customer service number, which is answered during regular business hours, for the phone number used in making the call. In order to clarify what is prohibited under this proposed provision, the Commission has defined ''caller identification service'' as ''a service that allows a telephone subscriber to have the telephone number and, where available, name of the calling party transmitted contemporaneously with the telephone call, and displayed on a device in or connected to the subscriber's telephone.'' The Commission intends the proposed definition of ''caller identification service'' to be sufficiently broad to encompass any existing or emerging technology that provides for the transmission of calling party information during the course of a telephone call.

Section 310.2(f)—''Charitable Contribution''

The Commission proposes adding a definition of ''charitable contribution.'' Section 1011 of the USA PATRIOT Act amends the Telemarketing Act to specify as an abusive practice the failure of ''any person engaged in telemarketing for the solicitation of *charitable contributions, donations, or gifts of money or any other thing of value''* to make certain prompt and clear disclosures. The Commission has determined that the single term ''charitable contribution,'' defined for the purposes of the Rule to mean ''any donation or gift of money or any other thing of value'' succinctly captures the meaning intended by Congress. Therefore, the Commission proposes to add this definition to the Rule.

The Commission has also determined that this definition should explicitly clarify that the definition and, accordingly, the entire Rule, is inapplicable to political contributions, including contributions to political parties and candidates. Calls to solicit such contributions are outside the scope of the Rule because they involve neither purchases of goods or services nor solicitations of charitable contributions, donations or gifts, and thus fall outside the statutory definition of ''telemarketing.'' 15 U.S.C. 6106(4). Thus, the Commission proposes to exclude from the definition of ''charitable contribution'' any contributions to ''political clubs, committees, or parties.'' [64] Additionally, as a matter of policy, and following the example of many state laws, the Commission also proposes to exclude from the definition contributions to constituted religious organizations or groups affiliated with and forming an integral part of the organization where no part of the net income inures to the direct benefit of any individual, and which has received a declaration of current tax exempt status from the United States government.'' [65] The Commission believes that the risk of actual or perceived infringement on a paramount societal value—free and unfettered religious discourse—likely outweighs the benefits of protection from fraud and abuse that might result from including contributions to such organizations within the scope of the definition.

[64] Similarly, a number of state statutes regulating charitable solicitations exempt political organizations. *E.g.,* Fla. Stat. ch. 496.403 (2000). Ill. Rev. Stat. ch. 23 para. 5103(2000).

[65] *See, e.g.,* Ga. Code Ann. Sec. 43–17–2(2); Ill. Rev. Stat. ch. 14 para. 54 (2000).

Section 310.2(m)—''Donor''

As part of its implementation of section 1011 of the USA PATRIOT Act, the Commission proposes adding a definition of ''donor.'' This Act's expansion of the TSR's coverage to encompass charitable solicitations necessitates the inclusion of a term in the Rule to denote a person solicited to make a charitable contribution. Throughout the original Rule, the terms ''customer'' and ''consumer'' are used to refer to those subject to a solicitation to purchase goods or services by a seller or telemarketer. The meaning of these terms cannot reasonably be stretched to include persons being asked to make a charitable contribution. Therefore, the Commission proposes adding to the Rule an analogous term—''donor''—for use in the context of charitable solicitations. Under the proposed definition, a person need not actually make a donation or contribution to be a ''donor.'' He or she need only be solicited to make a charitable contribution. (In this respect, the definition tracks the definition of ''customer''—''any person who is or may be required to pay for goods or services * * *.'')

Section 310.2(n)—''Express Verifiable Authorization''

The Commission proposes adding a definition of ''express verifiable authorization'' because the proposed Rule expands the use of the term beyond its meaning in the original Rule. The term ''express verifiable authorization'' comes into play in the proposed Rule in two distinct provisions: § 310.3(a)(3), requiring the express verifiable authorization of a customer or donor to a charge when certain payment methods are used; and § 310.4(b)(1)(iii)(b), which makes it a violation of the Rule to call any consumer or donor who has placed himself or herself on the national ''do-not-call'' list absent that consumer's or donor's express verifiable authorization. In order to ensure clarity, the term ''express verifiable authorization'' has been defined to mean ''the informed, explicit consent of a consumer or donor, which is capable of substantiation.'' The specific means of obtaining express verifiable authorization for a charge are listed in § 310.3(a)(3)(i)–(ii) and the specific means of obtaining express verifiable authorization to place a call to a consumer or donor who is on the national ''do-not-call'' list is found in § 310.4(b)(1)(iii)(B)(1)–(2).

Section 310.2(m)—''Internet Services''

The Commission also proposes adding a definition of ''Internet services'' because of the proposed modification of the business-to-business exemption, § 310.6(g), to make the exemption unavailable to telemarketers of Internet services, a line of business that is increasingly pursued by fraudulent telemarketers. Thus, the Commission proposes that the term ''Internet services'' be defined as ''the provision, by an Internet Service Provider, or another, of access to the Internet.'' The Commission intends for this term to encompass the provision of whatever is necessary to gain access to the Internet, including software and telephone or cable connection, as well as other goods or services providing access to the Internet. Specifically, the term includes provision of access to the Internet, or any component thereof, such as electronic mail, the World Wide Web, websites, newsgroups, Internet Relay Chat or file transfers.

Section 310.2(r)—''Outbound Telephone Call''

The Commission proposes modifying the Rule's definition of ''outbound telephone call''[66] to clarify the Rule's coverage in two situations: (1) When, in the course of a single call, a consumer or donor is transferred from one telemarketer soliciting one purchase or charitable contribution to a different telemarketer soliciting a different purchase or contribution, such as in the case of ''up-selling;''[67] and (2) when a single telemarketer solicits purchases or contributions on behalf of two separate sellers or charitable organizations (or some combination of the two). Under the proposed definition, when a call, whether originally initiated by a consumer/donor or by a telemarketer, is transferred to a separate telemarketer or seller for the purpose of inducing a purchase or charitable contribution, the transferred call shall be considered an ''outbound telephone call'' under the Rule. Similarly, if a single telemarketer solicits for two or more distinct sellers or charitable organizations in a single call, the second (and any subsequent) solicitation shall be considered an ''outbound telephone call'' under the Rule.

The Commission proposes this change in response to evidence in the Rule review record that the practice of ''up-selling'' is becoming increasingly common.[68] The Commission believes that in external up-selling, when calls are transferred from one seller or telemarketer to another, or when a single telemarketer solicits on behalf of two distinct sellers, it is crucial that consumers or donors clearly understand that they are dealing with separate entities. In the original Rule, the Commission determined that a disclosure of the seller's identity was necessary in every outbound call to enable the customer to make a fully-informed purchasing decision.[69] In the case of a call transferred by one telemarketer to another to induce the purchase of goods or services, or one in which a single telemarketer offers the goods or services of two separate sellers, it is equally important that the consumer know the identity of the second seller, and that the purpose of the second call is to sell goods or services. Such information is equally material to a donor's decision in the context of solicitations for charitable contributions. The Commission has determined that treating the transferred call as a separate outbound call will ensure that consumers receive the disclosures required by § 310.4(d) and that donors receive the disclosures proposed by § 310.4(e),[70] thereby clarifying the nature of the transaction for the consumer or donor, and providing him or her with material information necessary to make an informed decision about the solicitation(s) being made.[71]

In addition, the Commission wishes to clarify that a transferred call or a solicitation by a single telemarketer on behalf of a separate seller or charitable organization is, for the purposes of the Rule, a separate transaction. Because it is a separate transaction, it will be covered by the Rule if the separate seller or charitable organization is subject to the Commission's jurisdiction. Thus, if an initial inbound call is exempt from the Rule's coverage—for example, under the § 310.6(e) exemption for calls in response to general media advertising—but the consumer or donor is transferred to another seller or telemarketer, or if a second (or subsequent) seller's or charitable organization's solicitation is made by a single telemarketer, the transaction with the second solicitation will *not* be exempt under the general media exemption. On the contrary, the Commission will consider this to be a separate transaction and will make a separate determination whether that second seller or telemarketer falls within the FTC's jurisdiction and thus is subject to all of the Rule's requirements.

Section 310.2(aa)—''Telemarketing''

As explained above, the USA PATRIOT Act's amended definition of ''telemarketing'' has been incorporated into the definition of ''telemarketing'' in the Rule.

Section 310.2(bb)—''Web Services''

The Commission proposes adding a definition of ''Web services'' because of the proposed amendment to the business-to-business exemption, § 310.6(g), to make it unavailable to sellers and telemarketers of Web services, a line of business demonstrated by the Commission's recent law enforcement experience to be an area of particular abuse by fraudulent telemarketers. The Commission proposes that the term ''Web services'' be defined as ''designing, building, creating, publishing, maintaining, providing, or hosting a website on the Internet.'' The Commission intends for this term to encompass any and all services related to the World Wide Web.

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[66] The definition of ''outbound telephone call'' is in § 310.2(n) of the original Rule.

[67] *See* n.45 for an explanation of this term.

[68] *See* Rule Tr. at 95–99, 107–111, 176–177.

[69] The Act specified that the Commission include in the Rule a requirement that the telemarketer ''promptly and clearly disclose to the person receiving the call that the purpose of the call is to sell goods and services and make such other disclosures as the Commission deems appropriate, including the nature and price of the goods and services.'' 15 U.S.C. 6102(a)(3)(c). In the original rulemaking, the Commission determined that two additional disclosures were necessary: (1) The identity of the seller, and (2) that no purchase or payment is necessary to be able to win a prize or participate in a prize promotion if a prize promotion is offered. 16 CFR 310.4(d)(1) and (4). Section 310.4(e)(1) of the proposed Rule imposes an analogous requirement to disclose the identity of the charitable organization on behalf of whom an outbound telemarketing call is being made to solicit charitable contributions.

[70] In particular, consumers and donors need to understand that they are dealing with more than one seller or charitable organization, and the identity of each. It is also important that consumers understand that the purpose of the second transaction is to solicit sales goods or services, or charitable contributions (whichever is applicable).

[71] Additionally, the disclosures in § 310.3(a)(1) (or of proposed § 310.3(a)(4) as to charitable solicitations) would, of course, also have to be made by each telemarketer. In fact, as discussed, below, in the discussion of § 310.3, the Commission believes that even when a single telemarketer acts on behalf of two sellers or charitable organizations, it is necessary for these transactions to be treated as separate for the purposes of complying with the TSR. Therefore, in such an instance, the telemarketer should take care to ensure that the customer/donor is provided with the necessary disclosures for the primary solicitation, as well as any further solicitation. Similarly, express verifiable authorization for each solicitation, when required, would be necessary. Of course, even absent the Rule's requirement to obtain express verifiable authorization, telemarketers must always take care to ensure that consumers' or donors' explicit consent to the purchase or contribution is obtained.

Other Recommendations by Commenters Regarding Proposed Definitions

Credit terms. NCL recommended that changes in the way consumers pay for goods and services they purchase via telemarketing may necessitate changes in the Rule.[72] NCL further suggested that, if the Rule were amended to address telephone billing and other new forms of electronic payment, the definitions of ''credit card,'' ''merchant,'' and ''merchant agreement'' might need to be changed to ensure coverage of these new or alternative billing methods.[73] The Commission agrees that consumers need additional protection in certain telemarketing sales situations, but has effected these protections through proposed changes to the express verifiable authorization provision.[74] Therefore, the definitions of ''credit card,'' ''merchant,'' and ''merchant agreement'' are retained unchanged.

Telemarketing. DSA recommended that the definition of ''telemarketing'' be changed to make the Rule applicable only when more than one telephone is used in conducting a plan, program, or campaign to induce the purchase of goods or services.[75] The Commission's definition of telemarketing, which states that telemarketing occurs when *one or more* telephones are used to induce the purchase of goods or services, tracks verbatim the Telemarketing Act.[76] Even if it is assumed that the Commission has authority to deviate from the very specific definition mandated by the statute, the Commission believes that there is no justification to do so. Limiting the definition as DSA proposed would unnecessarily restrict the application of the Rule, which currently governs interstate calls which are part of a plan, program or campaign to induce the purchase of goods or services or to induce charitable contributions, even if only a single phone is used to place or receive calls. Therefore, the Commission has determined not to modify the definition in this manner.

Transactions Involving ''Preacquired Account Telemarketing.'' LSAP recommended that new definitions be added for the terms ''account,'' ''account holder,'' ''inbound telephone call,'' and ''preacquired account number,'' to address the practice of preacquired account telemarketing.[77] The Commission agrees that a definition of something like ''account'' would be helpful in clarifying the Rule's coverage, but has determined that the broader term ''billing information'' better serves the purpose. As set forth above, the definition of ''billing information'' is designed to ensure that sellers and telemarketers understand their new obligations under proposed § 310.4(a)(5), which prohibits as an abusive practice the receipt for use in telemarketing from any person other than the consumer or donor any consumer's or donor's billing information, and further prohibits disclosure of any consumer's or donor's billing information to any person for use in telemarketing.[78] Therefore, because it has addressed concerns about preacquired account telemarketing in other ways, the Commission believes that it is unnecessary to add definitions of ''account holder,'' ''inbound telephone call'' and ''preacquired account number.''

Online solicitation. NCL recommended that the scope of the Rule be expanded to cover online solicitations (discussed above in the section addressing proposed revisions to § 310.1), and that a definition of ''online solicitation'' be added to the Rule. For the reasons discussed above, the Commission has decided not to expand the Rule's coverage to online solicitations. Therefore, a definition of ''online solicitation'' is not necessary.

Free Trial Offers. NCL recommended that the Commission include definitions of ''free offer'' and ''trial offer'' if the Rule were amended to include specific requirements for sellers and telemarketers who make such offers. Several commenters noted that the practice of making a free trial offer has generated significant numbers of consumer complaints when those offers are coupled with preacquired-account telemarketing.[79] The Rule review record and the enforcement experience of the Commission and other law enforcement agencies confirm that consumers are often confused about their obligations when a product or service is offered to them for a trial period at no cost and the seller or telemarketer already possesses the consumer's billing information.[80]

As noted by NAAG, in many preacquired account telemarketing solicitations, products and services (often buyers' clubs) are marketed through the use of free trial offers, which are presented to consumers as ''low involvement marketing decisions.''[81] Consumers are asked merely to consent to the mailing of materials about the offer. Consumers frequently do not realize that the seller or telemarketer already has their billing information in hand and, instead, mistakenly believe they must take some action before they will be charged—*i.e.*, that they are under no obligation unless they take some additional affirmative step to consent to the purchase. When such free trial offers are coupled with preacquired account telemarketing, telemarketers often use the preacquired billing information to charge the consumers at the end of the trial period, even when consumers have taken no additional steps to assent to a purchase or authorize the charge, and have never provided any billing information themselves.[82]

The proposed Rule addresses concerns about free trial offers that are marketed in conjunction with preacquired-account telemarketing by banning the receipt of the consumer's billing information for use in telemarketing from any source other than the consumer.[83] The ban on the receipt of customer billing information from any source other than the consumer should curtail abuses that have occurred when free trial offers are made in conjunction with preacquired account telemarketing by effectively eliminating the trade in preacquired billing information. Free trial offers that are made to consumers via telemarketing, but absent the use of preacquired billing information, would, of course, remain subject to the Rule's requirements, including the disclosure requirements in § 310.3(a)(1) and § 310.4(d), and the prohibition on misrepresentations in § 310.3(a)(2). Pursuant to these provisions, any seller or telemarketer offering goods or services on a free trial basis would be required to disclose, among other things, the total cost and quantity of the goods or services and that the customer's account will be automatically charged or debited at the end of the free trial period, if such is the

[72] *See* NCL at 9.

[73] *Id.*

[74] § 310.3(a)(3). A complete analysis of the proposed revisions to this section can be found below in the discussion of § 310.3(a)(3).

[75] *See* DSA at 6.

[76] 15 U.S.C. 6106(4). At the end of the definition, however, the Rule adds a clarifying sentence not present in the statute.

[77] *See* LSAP at 2–3.

[78] *See* the section discussing § 310.4(a)(5), below, for a complete analysis of this provision.

[79] *See* NACAA at 2; NAAG at 11–12, 16–17; NCL at 5–6.

[80] *See, e.g., FTC* v. *Triad Discount Buying Service, Inc.* (S.D. Fla. No. 01–8922 CIV ZLOCH complaint and stipulated order filed Oct. 23, 2001); *New York* v. *Memberworks,* Assurance of Discontinuance (Aug. 2000); *Minnesota* v. *Memberworks, Inc.,* No. MC99–010056 (4th Dist. MN June, 1999); *Minnesota* v. *Damark Int'l, Inc.,* No. C8–99–10638, Assurance of Discontinuance (Ramsey County Dist. Ct. Dec. 3, 1999); *FTC* v. *S.J.A. Society, Inc.,* No. 2:97 CV472 (E.D. Va. filed May 31, 1997).

[81] *See* NAAG at 11.

[82] *Id.* at 11–12.

[83] Proposed Rule, § 310.4(a)(5).

case. Adherence to these Rule requirements will afford consumers the protections needed when accepting goods or services on a free trial basis.

''*Promptly.*'' As described in detail below in the discussion of § 310.4(d), NACAA and Texas suggested defining the term ''prompt'' as used in § 310.4(d) of the Rule, suggesting that the term be defined to mean ''at the onset'' of a call.[84] The Commission believes that the Rule's Statement of Basis and Purpose makes clear that ''prompt'' means ''at once or without delay,''[85] and that further clarification is unnecessary.

C. Section 310.3—Deceptive Telemarketing Acts or Practices

Section 310.3 of the Rule sets forth required disclosures that must be made in every telemarketing call; prohibits misrepresentations of material information; requires that a telemarketer obtain a customer's express verifiable authorization before obtaining or submitting for payment a demand draft; prohibits false and misleading statements to induce the purchase of goods or services or, pursuant to the USA PATRIOT Act amendments, to induce charitable contributions; holds liable anyone who provides substantial assistance to another in violating the Rule; and prohibits credit card laundering in telemarketing transactions. During the Rule review, the Commission received a large number of comments addressing various provisions of this section, the substance of which are discussed in turn below.

Section 310.3(a)(1)—Required Disclosures

Section 310.3(a)(1) requires the disclosure by a seller or telemarketer of five types of material information before a customer pays for goods and services. That information includes: the total cost and quantity of the goods offered; all material restrictions, limitations, or conditions to purchase, receive, or use the offered goods or services; information regarding the seller's refund policy if the seller has a policy of not making refunds or if the telemarketer makes a representation about such a policy; certain information relating to the odds involved in prize promotions; and all material costs or conditions to receive or redeem a prize.

Most of the comments about this section expressed support for the required disclosures,[86] and some recommended that additional disclosures be added to the Rule. MPA noted that the inclusion of the required disclosures in the Rule has been beneficial both for industry and consumers by providing clear guidelines for good business practices, and by establishing a standard that helps consumers to distinguish between legitimate and fraudulent telemarketing practices.[87] NASAA noted that the disclosure provisions also have been helpful in protecting investors from ''bait and switch'' scams where stockbrokers claim to be selling blue chip investments, but deliver only high-risk, little-known stocks.[88]

The Commission received no comments addressing the provisions regarding disclosure of refund policies (§ 310.3(a)(1)(iii)), or the disclosure of material costs or conditions to receive a prize (§ 310.3(a)(1)(v)). Moreover, the Commission's enforcement experience with these provisions does not suggest that there are deficiencies or omissions that need to be addressed through amendments. Therefore, these sections are included in the proposed Rule without change.

Several commenters suggested additional disclosures or other changes to § 310.3(a)(1), which they felt would enhance the consumer protections provided by this section. Each recommendation and the Commission's reasons for accepting or rejecting it are set forth below.

Section 310.3(a)(1)(i)—Disclosure of Total Costs

Some commenters suggested that the Commission clarify that, in the case of sales involving monthly installment payments, the total cost to be disclosed should be the total cost of the entire contract, not just the amount of the monthly installment.[89] These commenters noted that it is typical in magazine subscription sales for a telemarketer to state the weekly price for a subscription without giving the total cost for the entire term of the subscription period. For example, a magazine telemarketer might state that a consumer would be charged $3.45 per week for 48 months, rather than stating that the consumer's ultimate liability for the magazines will be more than $700.[90]

The Commission has already noted that in disclosing total costs it is sufficient for a seller or telemarketer to disclose the total number of installment payments and the amount of each payment.[91] The Commission recognizes, however, that it is possible to state the cost of an installment contract in such a way that, although literally true, obfuscates the actual amount that the consumer is being asked to pay. Such a statement of cost would not meet the relevant ''clear and conspicuous'' standard for disclosures under the Rule.[92] Particularly in long-term, high-cost contracts, where it may be advantageous to the seller or telemarketer to break the cost down to weekly or monthly amounts, and for the customer to pay over time, the disclosure of the number of installment payments and the amount of each must correlate to the billing schedule that will actually be implemented. Therefore, to comply with the Rule's total cost disclosure provision, it would be inadequate to state the cost per week if the installments are to be paid monthly or quarterly.

The Commission believes that the current total cost disclosure provision provides a customer with the necessary material information with which to make a purchasing decision when a seller discloses either the overall total cost, or, in the case of installment payments, the total number of payments and the amount of each. Therefore, the provision's language is retained in the proposed Rule without change.

Section 310.3(a)(1)(ii)—Disclosure of Material Restrictions

NAAG opined that the material information that a seller or telemarketer must disclose to a consumer in a telemarketing transaction includes the illegal nature of any goods and services offered. For example, NAAG noted that several cross-border telemarketing cases have involved the sale of foreign lottery chances to citizens of the United States, a practice which is illegal under U.S. law.[93] NAAG expressed the concern that

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[84] *See* NACAA at 2; Texas at 2.

[85] 60 FR at 43856, n. 150.

[86] *See, e.g.,* MPA at 5; ARDA at 2 (asserting that immediate disclosures benefit consumers ''[w]ithout placing an unreasonable burden on telemarketers'').

[87] *See* MPA at 5.

[88] *See* NASAA at 3.

[89] *See* NAAG at 8; Texas at 2.

[90] NAAG at 8.

[91] 60 FR at 43847; *Complying With the Telemarketing Sales Rule* at 16.

[92] 16 CFR 310.3(a)(1). The Commission believes that the best practice to ensure the clear and conspicuous standard is met is to ''do the math'' for the consumer wherever possible. For example, where the contract entails 24 monthly installments of $8.99 each, the best practice would be to disclose that the consumer will be paying $215.76. In open-ended installment contracts it may not be possible to ''do the math'' for the consumer. In such a case, particular care must be taken to ensure that the cost disclosure is easy for the consumer to understand.

[93] NAAG at 15. Law enforcement actions against telemarketers selling foreign lottery chances to U.S. citizens include: *FTC* v. *Win USA Ltd.,* No. C98–1614Z (W.D. Wash filed Nov. 13, 1998) (brought by the FTC, the State of Arizona, and the State of Washington); and *FTC* v. *Windermere Big Win Int'l, Inc.,* No. 98CV 8066, (N.D. Ill. filed Dec. 16, 1998). Federal law prohibits the importing and transmitting of lottery materials by mail and otherwise, 18 U.S.C. 1301–1302; such schemes may

some courts may construe the term ''material'' narrowly, so as not to require a disclosure of the inherent illegality of such offers.

The Commission believes that the definition of ''material'' contained in the Rule, which comports with the Commission's Deception Statement and established Commission precedent,[94] is sufficiently clear and broad enough to encompass the illegality of goods or services offered. Therefore, no change is proposed with respect to this provision.

Section 310.3(a)(1)(iv)—Disclosures Regarding Prize Promotions

Section 310.3(a)(1)(iv) requires that, in any prize promotion, a telemarketer must disclose the odds of being able to receive the prize, that no purchase or payment is required to win a prize or participate in a prize promotion, and the no purchase/no payment method of participating in the prize promotion. NCL suggested adding a disclosure that making a purchase will not improve a customer's chances of winning,[95] noting that this disclosure would be consistent with the requirements for direct mail solicitations under the Deceptive Mail Prevention and Enforcement Act (''DMPEA'').[96] The Commission has determined to add such a disclosure requirement, both in § 310.3(a)(1) (governing all telemarketing calls), and in § 310.4(d) (governing outbound telemarketing).

The Commission believes that this disclosure will ensure that consumers are not deceived. The legislative history of the DMPEA suggests that without such a disclosure, many consumers reasonably interpret the overall presentation of many prize promotions to convey the message that making a purchase will enhance their chances of winning the touted prize.[97] This message is likely to influence these consumers' purchasing decisions, inducing them to purchase a product or service they are otherwise not interested in purchasing just so they can become winners. For this reason, it is important that entities using these promotions take particular care to dispel deception by disclosing that a purchase will not enhance the chance of winning.

Section 310.3(a)(1)(vi)—Disclosures in the Sale of Credit Card Protection

The current TSR does not address telemarketing of credit card protection. NCL recommended that the Commission amend the Rule to do so, specifically to prohibit worthless credit card loss protection plans.[98] NCL reports that fraudulent solicitations for credit card loss protection plans ranked 9th among the most numerous complaints to the NFIC in 1999.[99] The Commission's complaint-handling experience is consistent with that of NCL. Credit card loss protection plans ranked 12th among the most numerous complaints received by the Commission during fiscal year 2000 (October 1, 1999–September 30, 2000). NCL's statistics also showed that these schemes disproportionately affected older consumers: over 71% of the complaints about these schemes were from consumers over 50 years of age.[100]

Telemarketers of credit card loss protection plans represent to consumers that they will protect or otherwise limit the consumer's liability if his or her credit card is lost or stolen,[101] but frequently misrepresent themselves as being affiliated with the consumer's credit card issuer, or misrepresent either affirmatively or by omission that the consumer is not currently protected against credit card fraud, or that the consumer has greater potential legal liability for unauthorized use of his or her credit cards than he or she actually does under the law.[102] Both the Commission and the State Attorneys General have devoted major resources to bringing cases that challenge the deceptive marketing of credit card loss protection plans as violations of the Rule.[103]

To address the deception that frequently characterizes the sale of credit card loss protection plans, the Commission believes consumers need disclosure of information about existing protections afforded by Federal law. Deception occurs if, first, there is a representation, omission, or practice that, second, is likely to mislead consumers acting reasonably under the circumstances, and third, the representation, omission, or practice is material.[104] Unscrupulous sellers and telemarketers of credit card protection create the impression, by omission and

also violate anti-racketeering laws relating to gambling, 18 U.S.C. 1952–1953, 1084.

[94] *Cliffdale Assocs., Inc.,* 103 F.T.C. 110, 165, *appeal dismissed sub nom., Koven v. F.T.C.,* No. 84–5337 (11th Cir. 1984); *Thompson Medical Co.,* 104 F.T.C. 648 (1984), *aff'd* 791 F.2d 189 (D.C. Cir. 1986).

[95] *See* NCL at 9. Although this suggestion was made with respect to § 310.4(d), governing oral disclosures required in outbound telemarketing calls, the rationale and purpose of the proposed disclosure applies with equal force to all telemarketing, as covered by § 310.3(a). *See also* the discussion, below, in the section on sweepstakes disclosures within the analysis of § 310.4(d).

[96] *Id.* The Deceptive Mail Prevention and Enforcement Act of 1999 is codified at 39 U.S.C. 3001(k)(3)(A)(II). In this regard, it is noteworthy that the Direct Marketing Association's Code of Ethics advises that ''[n]o sweepstakes promotion, or any of its parts, should represent * * * that any entry stands a greater chance of winning a prize than any other entry when this is not the case.'' ''The DMA Guidelines for Ethical Business Practice,'revised Aug. 1999, accessible online at http://www.the-dma.org/library/guidelines/dotherightthing.shtmlt23 (Article #23, Chances of Winning).

[97] Moreover, Publishers Clearing House (''PCH'') recently agreed to settle an action brought by 24 States and the District of Columbia alleging, among other things, that the PCH sweepstakes mailings deceived consumers into believing that their chances of winning the sweepstakes would be improved by buying magazines from PCH. As part of the settlement, PCH agreed to include disclaimers in its mailings stating that buying does not increase the recipient's chances of winning (and to pay $18.4 million in redress). In 2001, PCH agreed to pay $34 million in a settlement with the remaining 26 States. *See, e.g., Missouri ex rel. Nixon* v. *Publishers Clearing House,* Boone County Circuit Court, No. 99 CC 084409 (2001); *Ohio ex rel. Montgomery* v. *Publishers Clearing House,* Franklin County Court of Common Pleas, No. 00CVH–01–635 (2000). Similarly, in 1999, American Family Publishers (''AFP'') settled several multi-state class actions that alleged the AFP sweepstakes mailings induced consumers to buy magazines to better their chances of winning a sweepstakes. The original suit, filed by 27 States, was settled in March 1998 for $1.5 million, but was reopened and expanded to 48 States and the District of Columbia after claims that AFP violated its agreement. The State action was finally settled in August 2000 with AFP agreeing to pay an additional $8.1 million in damages. See, *e.g., Washington* v. *American Family Publishers,* King County Superior Court, No. 99–09354–2 SEA (2000). *See also,* U.S. Senate, ''Deceptive Mail Prevention and Enforcement Act,'' (1st Sess. 1999), Sen. Rep. No. 106–102; and U.S. House of Representatives, ''Deceptive Mail Prevention and Enforcement Act,'' (1st Sess. 1999), H. Rep. No. 106–431.

[98] NCL at 10.

[99] NCL at 10.

[100] NCL at 16.

[101] Credit card loss protection plans are distinguished from credit card registration plans, in which consumers pay a fee to register their credit cards with a central party, and that party agrees to contact the consumers' credit card companies if the consumers' cards are lost or stolen.

[102] NCL at 10. *See, e.g., FTC* v. *Universal Mktg. Svcs., Inc.,* No. CIV–00–1084L (W.D. Okla. filed June 20, 2000); *FTC* v. *NCCP Ltd.,* No. 99 CV–0501 A(Sc) (W.D.N.Y. filed July 22, 1999); *South Florida Business Ventures,* No. 99–1196–CIV–T–17F (M.D. Fla. filed May 24, 1999); *Tracker Corp. of America,* No. 1:97–CV–2654–JEC.

[103] *See, e.g., FTC* v. *Consumer Repair Svcs., Inc.,* No. 00–11218 (C.D. Cal. filed Oct. 23, 2000); *FTC* v. *Forum Mktg. Svcs., Inc.,* No. 00 CV 0905C (W.D.N.Y. filed Oct. 23, 2000); *FTC* v. *1306506 Ontario, Ltd.,* No. 00 CV 0906A (SR) (W.D.N.Y. filed Oct. 23, 2000); *FTC* v. *Advanced Consumer Svcs.,* No. 6–00–CV–1410–ORL–28–B (M.D. Fla. filed Oct. 23, 2000); *Capital Card Svcs., Inc.* No. CIV 00 1993 PHX ECH (D. Ariz. filed Oct. 23, 2000); *FTC* v. *First Capital Consumer Membership Svcs, Inc.,* Civil No. 00–CV–0905C(F) (W.D.N.Y. filed Oct. 23, 2000); *Universal Mktg. Svcs., Inc.,* No. CIV–00–1084L; *FTC* v. *Liberty Direct, Inc.,* No. 99–1637 (D. Ariz. filed Sept. 13, 1999); *FTC* v. *Source One Publications, Inc.,* No. 99–1636 PHX RCP (D. Ariz. filed Sept. 14, 1999); *FTC* v. *Creditmart Fin. Strategies, Inc.,* No. C99–1461 (W.D. Wash. filed Sept. 13, 1999); *NCCP Ltd.,* No. 99 CV–0501 A(Sc); *South Florida Business Ventures,* No. 99–1196–CIV–T–17F; *FTC* v. *Bank Card Sec. Ctr., Inc.,* No. 99–212–Civ–Orl–18C (M.D. Fla. filed Feb. 26, 1999); *Tracker Corp. of America,* No. 1:97–CV–2654–JEC.

[104] *Cliffdale Assocs.,* 103 F.T.C. at 165.

affirmative misrepresentation, that without the protection they offer, consumers' liability for unauthorized purchases is unlimited. In fact, Federal law limits this liability to $50.[105] This is obviously a material fact, since consumers would not likely purchase protection that duplicates free protection the law already provides them. Yet laypersons may be unaware of this feature of Federal law, and are not unreasonable to interpret the sales pitch of unscrupulous sellers and telemarketers of credit card protection to mean that unless they purchase this protection, a cardholder is exposed to unlimited liability. Therefore, omission of this material information in the context of a sales pitch for such protection is deceptive, and violates section 5 of the FTC Act.

Thus, based on the record compiled in this proceeding and on its law enforcement experience, the Commission believes that credit card loss protection plans—like prize promotions, advance fee loan offers, recovery services, and credit repair—are so commonly the subject of telemarketing fraud complaints and have caused such substantial injury to consumers, particularly the elderly, that it is warranted to modify the Rule to include specific provisions to address this problem.[106] Therefore, the Commission proposes to add new § 310.3(a)(1)(vi), which would require the seller or telemarketer of such plans to disclose, before the customer pays, the $50 limit on a cardholder's liability for unauthorized use of a credit card pursuant to 15 U.S.C. 1643. The requirement that sellers of such plans provide consumers with the material information about statutory limitations on a cardholder's liability for unauthorized charges will ensure that consumers have the information necessary to evaluate the worth of the plan and provide law enforcement with the necessary tools to identify and combat fraudulent credit card protection plans.

Other Recommendations by Commenters Regarding Disclosure Requirements

Several commenters addressed issues related to the timing of disclosures.[107] In general, the commenters agreed that disclosures are most meaningful if customers receive them in time to make a ''truly informed buying decision.'' [108] This premise was endorsed by the Commission in the initial rulemaking when it noted that the intent of the Rule was to have disclosures given ''so as to be meaningful to a customer's purchase decision.'' [109] In this regard, the Commission noted that, when a seller or telemarketer chooses to use written disclosures, ''any outbound telephone call made after written disclosures have been sent to customers must be made sufficiently close in time to enable the customer to associate the telephone call with the written document.'' [110]

Commenters raised three specific concerns regarding the timing of disclosures: the appropriate timing of required disclosures in preacquired account telemarketing; situations where disclosures are made only in the verification portion of a call, rather than in the earlier sales pitch; and the appropriate timing of required disclosures in dual or multiple purpose calls. The first of these concerns—the appropriate timing of disclosures in preacquired account telemarketing—is addressed in the discussion of proposed § 310.4(a)(5), which bans the receipt of a consumer's billing information from any source other than the consumer. The other two concerns regarding the timing of disclosures—disclosures during the verification portion of the call and disclosures in multiple purpose calls—are each discussed below, as is the recommendation, advanced by some commenters, that the Commission allow some disclosures to be made in writing.

Disclosures in the Sales and Verification Portions of Calls. NAAG expressed concern about the failure of some telemarketers to make the disclosures required by § 310.3(a)(1)—especially the disclosure of total cost—during the sales portion of the call, instead making these disclosures during the verification portion of the call, after payment information has already been discussed and assent to the transaction has already occurred.[111] NAAG noted that when telemarketers make disclosures only during the verification portion of the call, consumers are deprived of the opportunity to receive meaningful disclosures at an appropriate time.[112] NAAG and Texas recommended that the total cost be disclosed before any payment information is discussed, and that the total cost be stated during both the sales and verification portions of the call.[113]

As discussed above, the Rule requires that the disclosures in § 310.3(a)(1) be made before the customer pays, which means before the telemarketer comes into possession of the customer's billing information.[114] The disclosures required by § 310.3(a)(1), including disclosure of the total cost of the goods or services offered, must be made *before* the telemarketer receives information that will enable him or her to bill charges to the consumer. These disclosures would logically occur during the sales portion of the call, before the consumer has assented to the purchase by providing billing information. A verification process is precisely what the term implies: corroboration of a contract that has already been formed—of the consumer's assent to the purchase. It is an opportunity to ensure that the billing

[105] Under § 133 of the Consumer Credit Protection Act, the consumer's liability for unauthorized charges is limited to $50. 15 U.S.C. 1643.

[106] The Commission has not proposed to prohibit as an *abusive* practice the requesting or receiving of payment for credit card protection before delivery of the offered protection—the approach adopted in the original TSR with respect to advance fee loan offers, recovery services, and credit repair. The Commission took that approach because there are no disclosures that could effectively remedy the problems that arise from the telemarketing of those illusory services; the harm to consumers could be averted only by specifying that the seller's performance of any of these three services must precede payment by the consumer. In the case of credit card protection, such a remedy seems unworkable, because the protection would come into play only upon a purchaser's loss of his or her card and/or incurrence of unauthorized charges. More importantly, in such an event, federal law would provide the protection at issue, regardless of whether the offered protection did or not. Moreover, since it is possible that a seller could non-deceptively offer—and consumers could wish to purchase—credit card protection that provides more than that which federal law provides, the Commission is reluctant to ban outright the sale of credit card protection. Thus, requiring disclosure of material information seems the appropriate remedy to cure the deception, coupled with a prohibition in proposed § 310.3(a)(2)(viii) against misrepresenting such protection.

[107] *See, e.g.,* AARP at 3–4; NAAG at 9–10; NACAA at 2.

[108] AARP at 4.

[109] 60 FR at 43846.

[110] *Id.*

[111] *See* NAAG at 10; Texas at 2. In the original rulemaking, the initially proposed Rule included a requirement that a telemarketer repeat certain disclosures if verification occurred. 60 FR 8313, 8331 (Feb. 14, 1995) (citing the original proposed Rule § 310.4(d)(2)). The Commission later deleted this requirement after receiving numerous comments from industry representatives who argued that such a requirement would be ''unnecessary and unduly burdensome, requiring duplicative disclosures that would add to the cost of the call and annoy potential customers.'' 60 FR 30406, 30419 (June 8, 1995). The Commission finds nothing in the Rule review record to contradict its earlier determination, and therefore, declines to propose a requirement to make a second disclosure of total cost in the verification portion of the call. Of course, there is nothing in the Rule that would preclude a seller or telemarketer from making the required disclosures in the sales portion of the call and then voluntarily repeating those disclosures during the verification process.

[112] *See* NAAG at 9.

[113] *See id.* at 8, 10 (noting that the failure to disclose the total cost of the contract is common in magazine subscription sales when a telemarketer states only the weekly price for a subscription, rather than the total cost for the entire term); Texas at 2.

[114] 60 FR at 43846.

information received from the consumer is correct. It is *not* the appropriate time for disclosure of additional material information that a consumer needs to make a decision whether to enter into the transaction in the first place. Disclosure of previously undisclosed information in a ''verification'' comes too late for it to be of value to consumers, or to satisfy the requirements of the Rule. Thus, a telemarketer or seller who does not make the required disclosures until the verification portion of the call has violated the Rule.

Dual or Multiple Purpose Calls. In a dual or multiple purpose telemarketing call, there are both sales and non-sales objectives, such as when a telemarketer calls to inquire about a customer's satisfaction with a particular good or service already purchased, and then proceeds to offer additional goods or services.[115] Both NACAA and NAAG suggested that the Rule be clarified to require that, in such dual or multiple purpose calls, the required oral disclosures be made in the initial portion of the call, and that total cost also be disclosed in that initial portion.[116] These recommendations are considered below in the discussion of proposed changes to § 310.4(d).

Written versus oral disclosures. In its Request for Comment on the Rule, the Commission asked for information regarding the burdens, if any, the disclosure requirements have placed on sellers and telemarketers.[117] Reese noted that ''(d)isclosures associated with sales increase the length of a sales presentation by factors ranging from 10% to 50%,'' and suggested that the burden on industry could be reduced by allowing timely written disclosures to complement shorter oral disclosures under the Rule.[118] On the other hand, ARDA expressed the view that the current disclosures are not unreasonably burdensome.[119]

In response to the recommendation that written disclosures be allowed, the Commission notes that the Rule's requirement that disclosures regarding material terms of the offer be made before the customer pays does not preclude a telemarketer from providing these disclosures in writing, should the telemarketer choose to do so.[120] In the Statement of Basis and Purpose, the Commission noted in this regard that ''[t]hese disclosures may be made either orally or in writing.'' [121] Therefore, there is no need to modify this provision of the Rule in this regard.

Section 310.3(a)(2)—Prohibited Misrepresentations in the Sale of Goods and Services

Section 310.3(a)(2) prohibits a seller or telemarketer from misrepresenting certain material information in a telemarketing transaction involving the sale of goods or services. These include: Total cost, any material restrictions, and any material aspect of the performance, efficacy, nature, or central characteristics of the goods or services offered; any material aspect of the seller's refund policy; any material aspect of a prize promotion; any material aspect of an investment opportunity; and a seller's or telemarketer's affiliation with, or endorsement by, any governmental or third-party organization.[122]

MPA, the only commenter who directly addressed this section in its comment, stated that it ''wholeheartedly supports'' the provision, noting that it is in the best interests of legitimate firms that all telemarketing calls include full and accurate disclosures.[123] Therefore, the only proposed modification to § 310.3(a)(2) is two minor wording changes necessitated by the amendments to the Telemarketing Act contained in section 1011 of the USA PATRIOT Act. First, the phrase ''in the sale of goods or services'' has been added to § 310.3(a)(2) to clarify the intended scope of that provision. Newly proposed § 310.3(d) lists prohibited misrepresentations in the context of the solicitation of charitable contributions. Second, the language in § 310.3(a)(2)(vii) has been modified to read: ''A seller's or telemarketer's affiliation with, or endorsement or sponsorship by, any person or government entity'' to conform with the new analogous provision proposed in § 310.3(d)(8).

Section 310.3(a)(2)(viii)—Credit Card Loss Protection Plans

The current TSR does not include prohibitions regarding the sale of credit card protection. As discussed above, NCL, citing the numerous complaints it receives, recommended that the Commission revise the Rule to address the telemarketing of credit card loss protection plans.[124] The Commission's complaint-handling and law enforcement experience confirms the points made in NCL's comments. Telemarketers of credit card loss protection plans represent to consumers that they will protect or otherwise limit the consumer's liability if his or her credit card is lost or stolen, but frequently misrepresent themselves as being affiliated with the consumer's credit card issuer,[125] or misrepresent either affirmatively or by omission that the consumer is not currently protected against credit card fraud, or that the consumer has greater potential legal liability for unauthorized use of his or her credit cards than he or she actually does under the law.

In addition to the new requirement proposed in § 310.3(a)(1)(vii) to disclose material information about existing protections afforded by federal law, the Commission proposes to add to the Rule a prohibition against misrepresenting that any customer needs offered goods or services to provide protections a customer already has pursuant to section 133 of the Consumer Credit Protection Act, 15 U.S.C. section 1643, which limits a cardholder's liability for unauthorized charges to $50.[126]

Deception occurs if, first, there is a representation, omission, or practice that, second, is likely to mislead consumers acting reasonably under the circumstances, and third, the representation, omission, or practice is material.[127] Unscrupulous sellers and telemarketers of credit card protection frequently misrepresent, either expressly or by implication, that without the protection they offer, consumers' liability for unauthorized purchases is unlimited. This is obviously a material fact, since consumers would not likely purchase

[115] This sales practice was identified and explained in the original Rule's Statement of Basis and Purpose. 60 FR at 43856.

[116] *See* NAAG at 6–8; NACAA at 2.

[117] 65 FR 10428, 10431; Question 10(f).

[118] Reese at 5.

[119] *See* ARDA at 2.

[120] Nevertheless, in outbound telemarketing calls, four prompt *oral* disclosures must be made: (1) The identity of the seller; (2) that the purpose of the call is to sell goods or services; (3) the nature of the goods or services; and (4) disclosures about any prize promotion being offered. § 310.4(d).

[121] 60 FR at 43846. The Commission further noted that it intends, by requiring ''clear and conspicuous'' disclosures, that ''any outbound telephone call made after written disclosures have been sent to consumers must be made sufficiently close in time to enable the customer to associate the telephone call with the written document.'' *Id.*

[122] 16 CFR 310.3(a)(2).

[123] MPA at 7–8.

[124] NCL at 10.

[125] This practice violates § 310.3(a)(2(vii), which prohibits misrepresenting a seller's or telemarketer's affiliation with any third-party organization.

[126] This approach parallels the TSR's treatment of cost and quantity of goods (§§ 310.3(a)(1)(i) and 310.3(a)(2)(i)), material restrictions, limitations, or conditions (§§ 310.3(a)(1)(ii) and 310.3(a)(2)(ii)), refund policy (§§ 310.3(a)(1)(iii) and 310.3(a)(2)(iv)), and prize promotions (§§ 310.3(a)(1)(iv) & (v) and 310.3(a)(2)(v)). In each case, material facts must be disclosed, and misrepresentations are prohibited.

[127] *Cliffdale Assocs.,* 103 F.T.C. at 165.

protection that duplicates free protection the law already provides them. Yet laypersons may be unaware of this feature of federal law, and reasonably interpret the sales pitch of unscrupulous sellers and telemarketers of credit card protection to mean that unless they purchase this protection, a cardholder is exposed to unlimited liability. Therefore, this is a material misrepresentation, and is deceptive, in violation of section 5 of the FTC Act. Accordingly, the Commission proposes to add new § 310.3(a)(2)(viii), which would prohibit misrepresenting that any customer needs offered goods or services in order to have protections provided pursuant to 15 U.S.C. 1643.

Section 310.3(a)(3)—Express Verifiable Authorization

Section 310.3(a)(3) of the Rule requires that a telemarketer obtain express verifiable authorization in sales involving payment by demand drafts or similar negotiable paper, and provides that authorization will be deemed verifiable if any of three specified means are employed to obtain it: (1) Express written authorization by the customer, including signature; (2) express oral authorization that is tape recorded and made available upon request to the customer's bank; or (3) written confirmation of the transaction, sent to the customer before submission of the draft for payment. If the telemarketer chooses to use the taped oral authorization method, the Rule requires the telemarketer to provide tapes evidencing the customer's oral authorization, including an explanation of the number, date(s) and amount(s) of payments to be made, date of authorization, and a telephone number for customer inquiry that is answered during normal business hours.[128]

The Commission proposes to amend the express verifiable authorization provision. The proposed Rule retains the concept that it is a deceptive practice and a rule violation to obtain or submit for payment a check, draft, or other form of negotiable paper drawn on a person's checking, savings, share, or similar account, without that person's express verifiable authorization; however, the proposed Rule extends the provision to specify that is a deceptive practice and a Rule violation to submit *billing information* for payment without the customer's express verifiable authorization when the method of payment does not have the protections provided by, or comparable to those available under, the Fair Credit Billing Act (''FCBA'') and the Truth in Lending Act (''TILA'')(such as is the case with checks, drafts, or other forms of negotiable paper). By expanding the express verifiable authorization provision to cover billing methods besides demand drafts, the Rule would provide protections for consumers in a much larger class of transactions where an unauthorized charge is likely to present a particular hardship to the consumer because of the lack of TILA and FCBA protections.

In addition to expanding the scope of § 310.3(a)(3) to require express verifiable authorization for additional payment methods, the proposed Rule also requires that the customer must receive additional information in order for authorization to be deemed verifiable: the name of the account to be charged (*e.g.*, ''Mastercard,'' or ''your XYZ Mortgage statement'') and the account number, which must be recited by either the consumer or the telemarketer.

The Commission also proposes to delete § 310.3(a)(3)(iii), which allows a seller or telemarketer to obtain express verifiable authorization by confirming a transaction in writing, provided the confirmation is sent to the customer prior to the submission of the customer's billing information for payment. This change would leave the two other methods of authorization—written authorization before a charge is placed and taped oral authorization—available for use by sellers and telemarketers.

Finally, pursuant to section 1011 of the USA PATRIOT Act, the Commission proposes a global revision throughout § 310.3(a)(3)—specifically, in every instance where the word ''customer'' (including the possessive form) occurs, the phrase ''or donor'' (again, including the possessive form, where appropriate) has been added. This change brings within the coverage of the express verifiable authorization requirement all situations where a telemarketer accepts payment of a solicited charitable contribution through a payment method that does not impose a limitation on liability for unauthorized charges nor provide for dispute resolution procedures pursuant to, or comparable to, those available under the FCBA and the TILA.

The Commission received several comments regarding § 310.3(a)(3), and discussed the topic of express verifiable authorization extensively at the July 2000 Forum.[129] MPA stated that this provision strikes an appropriate balance, allowing telemarketers to compete fairly with other point-of-sale providers while still protecting customers' checking accounts.[130] Law enforcement agencies and consumer protection groups, however, recommended several changes to the provision. Each recommendation and the Commission's reasoning for accepting or rejecting it is discussed below.

Express Verifiable Authorization When Using Novel Payment Methods. Some commenters suggested that the TSR be amended to ensure that consumers are protected when using any of the ever-increasing array of payment methods to pay for telemarketing transactions.[131] NCL suggested that emerging payment methods may necessitate Rule changes to safeguard consumers using these methods from unauthorized charges.[132] NAAG expressed concern that, given the increasing number of available payment options, consumers' authorization extend not only to the amount of the charge, but also to the payment method to be used.[133]

As examples of emerging payment methods, commenters and attendees of the July Forum cited the increasing prevalence and use of debit cards,[134] the development of electronic payment systems,[135] and the growing use, by

[128] Section 310.3(a)(3)(iii)(A) requires that all information required to be included in a taped oral authorization be included in any written confirmation of the transaction.

[129] *See generally* LSAP at 4; MPA at 8; NAAG at 20; NCL at 5, 10–11, 13; Rule Tr. at 131–190.

[130] MPA at 8.

[131] *See* NCL at 5; NAAG at 20.

[132] *See* NCL at 5 (suggesting the Rule be expanded to ''protect consumers from abuses and provide better oversight of vendors who participate in new electronic payment systems'').

[133] *See* NAAG at 20 (recommending that ''consumers' agreement to any participant form of payment be expressly demonstrated and subject to verification'').

[134] *See* NCL at 5 (''Debit cards accounted for one percent of the fraudulent telemarketing transactions reported to the NFIC in 1999 and this form of payment is likely to grow as more customers are issued debit cards and grow more comfortable using them.''); Rule Tr. at 132–133 (NCL noting a ''dramatic increase in debit card usage in the last several years;'' and that debit cards accounted for three percent of the fraudulent telemarketing transactions reported to NFIC in the first half of 2000.). *See also*, John Reosti, *Debit Cards Seen as No Threat to Credit Card Revenues*, The American Banker, (June 29, 2000), p. 11A (noting that the popularity of debit cards is increasing, with some predicting that debit cards will outpace credit cards as a payment method by 2005).

[135] *See, e.g.*, NCL at 5 (noting that the growth in electronic commerce has led to the development of new forms of payment, such as ''cyberwallets''). ''Cyberwallets'' provide secure access to a customer's existing bank or credit card accounts via the Internet, and are now offered by many companies, such as Visa and Mastercard. *See www.visa.com/pd/ewallet/main.html; www.mastercard.com/shoponline/e-wallets/*. Other new electronic access devices include stored value cards (SVCs) and smartcards, which allow customers to purchase goods or services using money ''loaded'' onto the cards, which contain

unrelated vendors, of the billing and collection systems of mortgage or utility companies to bill and collect for telemarketing purchases.[136] When asked to predict what additional payment methods might likely emerge in the coming years, industry representatives at the July Forum noted that new technologies have already expanded the range of payment options. For example, the DMA representative noted that a small percentage of DMA telemarketer members already offer to accept payment via the Internet.[137] Another Forum participant predicted ''the continued growth of debit mechanisms,'' including not only debit cards, but electronic benefit transfer cards that would, for example, enable recipients of Social Security benefits to make payments using an access card tied to those benefits.[138] Still another participant noted the development of technology that would enable a consumer to purchase goods and services advertised on television with a simple click of a remote control device, with the resulting charge billed to the subscriber's cable account.[139]

In advancing their argument, those commenters who advocated expanding the express verifiable authorization provision to cover novel payment methods suggested that consumers may not be aware that they can be billed for a telemarketing purchase via some of these methods (such as on their utility and mortgage bills). This concern is analogous to the concerns articulated about deception in the use of demand drafts in the original rulemaking—concerns which led the Commission to determine that consumers' unfamiliarity with demand drafts could lead them unwittingly to provide their bank account numbers to a telemarketer without realizing that funds could be withdrawn in the absence of a signed check.[140] Unaccustomed to this new type of transaction, consumers had no reason to expect that funds could be debited from their checking accounts unless they wrote and signed a check. But telemarketers, through omissions or affirmative misrepresentations, were inducing consumers to divulge their checking account numbers, with the result that funds were debited from their accounts. Thus, the Commission determined that to dispel consumers' false expectations about their checking account numbers, disclosure of material facts about how telemarketers would use the account information they were being asked to divulge was necessary. Thus, § 310.3(a)(3) of the original TSR provides that it is a deceptive practice and a rule violation to obtain or submit for payment a check, draft, or other form of negotiable paper drawn on a person's checking, savings, share, or similar account, without that person's express verifiable authorization.[141] Section 310.3(a)(3) also established ''safe harbor'' disclosure procedures to use in obtaining express verifiable authorization

The Commission believes that the increased availability and use of new payment methods necessitates expanding the Rule's express verifiable authorization provision to cover those new methods. The emergence of novel and, for the consumer, unexpected billing and collection systems for telemarketing purchases has brought an attendant rise in consumer complaints about unauthorized charges for telemarketing purchases on, among other things, mortgage accounts and utility bills. The Commission believes that deception is occurring in connection with telemarketers' use of new billing and collection systems. The rationale which supported the original requirement for express verifiable authorization in the use of demand drafts pertains with equal force to other unconventional payment methods not covered by the TILA and FCBA. Consumers have no reason to anticipate that their accounts can be debited or charged without their signature, and they may be induced to divulge their billing information on the basis of this misperception. To obviate deception on this issue, consumers need disclosure of material facts about how telemarketers will use the billing information they are being asked to divulge. Finally, an additional factor supporting the expanded coverage of the express verifiable authorization provision to novel payment systems is that many of the emerging payment systems cited by commenters in this proceeding lack chargeback protection and dispute resolution rights, as well as limited customer liability in the event of unauthorized charges. As was the case with demand drafts, the Commission believes that express verifiable authorization for novel payment systems will ensure that such systems are only used when consumers clearly agree to that use.

The Commission believes that requiring express verifiable authorization when novel payment systems are used to bill and collect for a telemarketing purchase will remedy the deceptive practices often associated with the growth of new payment systems. Therefore, the Commission proposes to amend § 310.3(a)(3) to require that the consumer's express verifiable authorization be obtained when payment is to be made by any method that ''does not impose a limitation on the customer's liability for unauthorized charges nor provide for dispute resolution procedures pursuant to, or comparable to those available under, the Fair Credit Billing Act and the Truth in Lending Act, as amended.''

The proposed Rule retains the safe harbor that calls for the customer receiving the following information as evidence of oral authorization: the number, date(s) and amount(s) of payments, a telephone number for customer inquiry, and the date of the customer's oral authorization. In addition, the proposed Rule would call for another piece of information to be included in any taped oral authorization: Specific identification or recitation of the name of the specific account and the account number to be charged in the particular transaction. This material information will ensure that consumers are aware of the specific account against which the charge or debit will be placed.

The proposed Rule deletes the term ''draft'' to reflect the expanded application of the provision to forms of payment other than demand drafts; and, for the same reason, the term ''payor'' has been replaced by the term ''customer.''

Finally, the proposed Rule eliminates § 310.3(a)(3)(iii), which deemed verifiable any authorization obtained by

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embedded microchips to track the cards' value. *See* Janine S. Hiller and Don Lloyd Cook, *From Clipper Ships to Clipper Chips: The Evolution of Payment Systems For Electronic Commerce*, J.L.& Com., Fall, 1997, p. 53, 79–81. Visa Cash is one example of a stored value card that can be used in lieu of cash for purchases. *See www.visa.com/pd/cash/main.html*. Mastercard offers a smartcard product. *See www.mastercard.com/ourcards/smartcard/*. ''Electronic cash'' services, using prepaid accounts that can be drawn against for making online purchases, are also under development. *See* Stacy Collett, ''New Online Payment Options Emerging,'' *www.cnn.com/2000/TECH/computing/02/03/pay.online.options.idg*.

[136] *See* LSAP at 4; NAAG at 10, 20; NCL at 5, 10. For example, buyers' club programs can be billed to customers' mortgage statements or telephone or electricity bills. The growth of this type fo non-traditional billing has led to complaints regarding unauthorized charges from customers unfamiliar with such billing arrangements.

[137] Rule Tr. at 180.

[138] *Id.* at 183.

[139] *Id.* at 185. Such a transaction could occur without any telephone contact between the seller and customer, thus making it outside the scope of this Rule. However, this technology could also be used in conjunction with telemarketing, and thus merits inclusion here.

[140] 60 FR at 43850.

[141] The Commission was persuaded that *verifiable* authorization was necessary for demand drafts because demand drafts lacked chargeback protection and dispute resolution rights, and because of the risk that a consumer's bank account could be drained by unauthorized charges.

written confirmation of the transaction, sent to the customer before submission of the draft for payment. Commenters and participants at the July Forum made clear that written confirmation prior to the submission of a customer's billing information for payment is seldom, if ever, used as a method of express verifiable authorization.[142] Moreover, the Commission's law enforcement record provides ample evidence that when this method is used, it is subject to abuse.[143] Given that the method of authorization in § 310.3(a)(3)(iii) is used infrequently, and that complaints received by the Commission suggest that it has been subject to abuse by those telemarketers who employ it, the Commission proposes to delete this provision from the Rule.

In proposing to expand the coverage of the express verifiable authorization provision to include novel payment methods beyond demand drafts, the Commission has considered the effect this change would have on telemarketing businesses. Although the proposed change might be expected to result in additional costs to some telemarketers, the record reflects that telemarketers already commonly tape the customer's oral authorization in all calls in which a sale is made.[144] Given the apparent prevalence of taping, the Commission believes that any additional burden on telemarketers will be minimal.

Other Recommendations by Commenters Regarding Authorization

Some commenters suggested that the Rule restrict the allowable methods of authorization in certain circumstances. For example, some commenters recommended requiring written authorization when funds will be withdrawn from a customer's bank account or when a telemarketer has preacquired billing information.[145] These commenters assert that written authorization is necessary when a consumer's bank account is being accessed by a telemarketer because consumers have limited recourse when funds are misappropriated from their bank accounts.[146]

Requiring Written Authorization for Preacquired Account Telemarketing. Some commenters expressed the view that in situations when the telemarketer possesses preacquired billing information, the Rule should require the telemarketer to obtain the consumer's written authorization. In this way, the consumer would have a readily recognizable means to signal assent to a purchase.[147] NAAG argued that such a means of ensuring the customer's assent is particularly necessary where an imbalance of information exists because the telemarketer, often unbeknownst to the consumer, has the means to charge the customer's account without ever seeking permission to do so.[148]

As outlined below, in the discussion of § 310.4(a)(5), the Commission proposes to prohibit as an abusive practice the receipt of a consumer's billing information from any source other than from the consumer. Therefore, the Commission declines to require written authorization in instances of preacquired account telemarketing.

Requiring Written Authorization to Withdraw Funds From a Customer's Checking Account. Some commenters urged the Commission to amend the Rule to prohibit any telemarketer from debiting a customer's bank account without the customer's written authorization.[149] In the original rulemaking, the Commission declined to adopt such a position, stating that:

> Requiring such prior written authorization could be tantamount to eliminating this emerging payment alternative. Moreover, the Commission believes that it would be inconsistent to impose upon demand drafts a more stringent authorization mechanism than that imposed on electronic funds transfers under the EFTA and Reg. E.[150]

The Commission reaffirms its reluctance to impose on demand drafts more stringent requirements than those imposed on electronic funds transfers.[151] Moreover, the Commission believes that the oral authorization alternative provided in § 310.3(a)(3)(ii) has proven sufficient to protect consumers against unauthorized access to their bank accounts, except, perhaps, in those cases where a fraudulent telemarketer has resorted to altering verification tapes, or has flouted the requirement of the provision altogether. The Commission believes that even a written authorization requirement would not solve such problems because a telemarketer willing to alter verification tapes might also be inclined to forge signatures, and one ignoring the current oral authorization procedure would be no more likely to follow a more stringent one. Therefore, the Commission rejects this proposal.

Section 310.3(a)(4)—Prohibition of False and Misleading Statements to Induce the Purchase of Goods or Services or a Charitable Contribution

Only MPA commented on this provision of the Rule, noting that its broad prohibition against false or misleading statements to induce the purchase of goods or services provided flexibility for law enforcement to address fraud, regardless of the method of payment used. The Commission has used this provision extensively in cases it has brought under the Rule and has determined that the provision should be retained unchanged.[152]

Pursuant to section 1011 of the USA PATRIOT Act, the Commission proposes to expand the coverage of this prohibition to encompass misrepresentations ''to induce a charitable contribution.'' No other revision is proposed.

Section 310.3(b)—Assisting and Facilitating

Section 310.3(b) prohibits a person from providing substantial assistance or support to any seller or telemarketer

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[142] *See* Reese at 5; Rule Tr. 116–118; 122.

[143] See, *e.g., FTC* v. *S.J.A. Society, Inc.*, No. 2:97cv472 (E.D. Va. filed May 12, 1997) (defendants sent consumers written ''confirmation'' of unauthorized debit payments). See also *FTC* v. *Diversified Mktg. Serv. Corp.*, No. 96–388 (W.D. Okla. filed Mar. 13, 1996); *FTC* v. *Winward Mktg., Ltd.*, et al., No. 96–cv–0615–FWH (N.D. Ga. filed Mar. 12, 1996).

[144] *See* Reese at 5 (stating that it is ''standard practice * * * to ask the buyer's permission to record all or part of a sale on tape, as a mutual protection and to allow for post-sale independent verification''); Rule Tr. at 116–118 (''* * * 100% of sales calls are taped, and not the call, the portion in which the agreement to purchase goods and services and the terms for that purchase are tape recorded. I don't have a client that doesn't insist on it right now.''), 122 (noting an increase in taping to ensure that consent has been provided and for use in any law enforcement investigation).

[145] AARP at 4; NAAG at 20 (suggesting that the Rule require written authorization when funds are withdrawn from bank account); *Id.* at 13 (suggesting that the Rule require written authorization when a telemarketer has preacquired billing information).

[146] AARP at 4; NAAG at 20.

[147] *See* AARP at 4; NAAG at 10.

[148] NAAG at 10.

[149] AARP at 4; NAAG at 20 (citing laws in Vermont and Kentucky that already require written authorization before a customer's bank account can be debited).

[150] 60 FR at 43851.

[151] In this regard, the TSR's express verifiable authorization provision is also consistent with the NACHA Operating Rules, which govern payments made through the Automated Clearing House system. *See* NACHA at 2; Rule Tr. at 131–186.

[152] The Commission has brought over eighty cases that included allegations under § 310.3(a)(4) since the Rule was enacted. *See, e.g., FTC* v. *Pacific Rim Pools Int'l,* No. C97–1748, (W.D. Wash. filed Nov. 7, 1997) (Order for Permanent Injunction and Final Judgment entered on Jan. 12, 1999); *FTC* v. *National Business Distribs. Co., Inc.,* No. 96–4470 (Mcx) JGD, (C.D. Cal. filed June 26, 1996) (Final Judgment and Order for Permanent Injunction entered on Jan. 24, 1997); *FTC* v. *Ideal Credit Referral Svcs. Ltd.,* No. C96–0874, (W.D. Wash. filed June 5, 1996) (Default Judgment and Order for Permanent Injunction and for Monetary Relief entered on Apr. 16, 1997); *FTC* v. *USA Credit Svcs., Inc.,* No. 96–639 J LSP, (S.C. Cal. filed Apr. 10, 1996) (Final Judgment and Order for Permanent Injunction and Other Equitable Relief entered on Mar. 20, 1997).

when that person knows or consciously avoids knowing that the seller or telemarketer is violating certain provisions of the Rule. Comments about this provision of the Rule were mixed. MPA asserted that the assisting and facilitating standard ''struck exactly the right balance,'' [153] while law enforcement and consumer advocacy groups were critical, reiterating many of the concerns they raised during the original rulemaking about the difficulty in meeting the Rule's scienter standard.[154]

The critics of the provision argued that the Rule's current standard—which requires showing that the individual or entity knew or consciously avoided knowing about the law violations—sets the standard too high, and should be changed to a ''knew or should have known'' standard.[155] They opined that the ''conscious avoidance'' standard is not used in other areas of enforcement and is a departure from legal authority under many State consumer protection statutes and under the FTC Act, where the ''knew or should have known'' standard is commonly accepted.[156] They further argued that a ''knew or should have known'' standard would make it easier for law enforcement to challenge the support system for cross-border fraud.[157]

The Commission has considered the recommendation to change the standard, but believes that the ''conscious avoidance'' standard is appropriate because the Rule creates potential liability to pay redress or civil penalties based on another person's violation of the Rule. The ''knew or should have known'' standard is appropriate where an alleged wrongdoer is liable to be placed under an administrative cease-and-desist order or conduct injunction in a district court order based on his or her own direct violation of the Rule. As noted in the Rule's Statement of Basis and Purpose, ''in a situation where a person's liability to pay redress or civil penalties for a violation of this Rule depends on the wrongdoing of another person, the ''conscious avoidance'' standard is correct.'' [158] However, the Commission invites additional comment on, and proposals for alternatives to, this provision in Section IX.

Section 310.3(c)—Credit Card Laundering

Section 310.3(c) prohibits credit card laundering. The few comments received concerning this section expressed strong support for the provision. ATA noted that the bright line this provision draws between legitimate and illegitimate business has made the Rule successful.[159] MPA stated that this provision strictly targets bad actors because legitimate companies would be able to establish relationships with credit card companies, leaving only illegitimate companies to violate this provision.[160] ATA agreed with MPA on this point, noting that stricter guidelines adopted by credit card companies for acceptable chargeback rates have further separated good from bad actors.[161]

The Commission's enforcement experience has demonstrated that § 310.3(c) can be a useful tool in pursuing fraudulent telemarketers and those who provide them credit card laundering services.[162] However, the Commission believes the provision's usefulness may be unduly restricted by the phrases ''(e)xcept as expressly permitted by the applicable credit card system,'' in the preamble to § 310.3(c), and ''when such access is not authorized by the merchant agreement or the applicable credit card system'' in § 310.3(c)(3). In the initial rulemaking proceeding, Visa and Mastercard urged that these limiting phrases be adopted to ensure that the Rule did not unduly restrict legitimate activity. In its enforcement activities, however, the Commission has sometimes met with unwillingness on the part of overseas affiliates or branches of credit card system operators, such as Visa and Mastercard, to corroborate whether the conduct of specific telemarketers and others providing assistance to telemarketers is allowable under the rules of the credit card system or the specific terms of the telemarketer's merchant agreement. The absence of such cooperation has, in some instances, hobbled law enforcement efforts to bring fraudulent telemarketers to justice.

As a result of concern about the enforceability of the original provision in the absence of the full cooperation of credit card system operators, the Commission has requested comment in Section IX on possible changes to this provision that would better facilitate law enforcement efforts.

The Commission proposes no changes to the text of § 310.3(c) pursuant to section 1011 of the USA PATRIOT Act. The proposed Rule, however, expands coverage of the § 310.3(c) prohibition on credit card laundering through modification of the definition of a key term used in this provision—''merchant.'' As discussed, the proposed definition would encompass persons authorized to honor or accept credit card payment, not only for the purchase of goods or services, but also for the payment of charitable contributions. The Telemarketing Act, as originally enacted, specifically identified as appropriate for rule coverage ''acts or practices of entities or individuals that assist or facilitate deceptive telemarketing, including credit card laundering.'' 15 U.S.C. 6102(a)(2). Neither the text nor the underlying rationale of section 1011 of the USA PATRIOT Act suggest that this provision should not be extended to reach instances where credit card laundering occurs in connection with charitable solicitations.

Section 310.3(d)—Prohibited Deceptive Acts or Practices in the Solicitation of Charitable Contributions, Donations, or Gifts

Section 1011(b)(1) of the USA PATRIOT Act mandates that the Commission include ''fraudulent charitable solicitations'' in the deceptive practices prohibited by the TSR. Accordingly, the Commission proposes a new section, 310.3(d), prohibiting specific material misrepresentations that have been alleged in Commission enforcement actions or those brought by FTC counterparts on the state level, or that have been prohibited by statute in one or more states. The new provision would prohibit misrepresentations of the following:

- The nature, purpose, or mission of any entity on behalf of which a charitable contribution is being requested;[163]

[153] MPA at 8.

[154] *See* NAAG at 6; NACAA at 2; Texas at 2.

[155] *Id.* Despite the high standard of proof set by the ''conscious avoidance'' standard, the Commission has successfully used the provision in a number of cases. *See, e.g., FTC* v. *Woofter Inv. Corp.,* No. CV–S–97–00515–LDG (RLH), (D. Nev. filed May 12, 1997) (Stipulated Order for Permanent Injunction and Final Judgment entered on Dec. 28, 1998); *FTC* v. *Ideal Credit Referral Svcs. Ltd.,* No. C96–0874, (W.D. Wash. filed June 5, 1996) (Default Judgment and Order for Permanent Injunction and for Monetary Relief entered on Apr. 16, 1997).

[156] *See* NAAG at 5–6; Texas at 2.

[157] *See* NACAA at 2; NAAG at 6; Texas at 2.

[158] 60 FR at 43852 (citations omitted).

[159] ATA at 4–5.

[160] MPA at 9.

[161] ATA at 4–5.

[162] *See, e.g., FTC* v. *Windermere Big Win Int'l, Inc.,* No. 98CV 8066, (N.D. Ill. filed Dec. 16, 1998); *FTC* v. *Pacific Rim Pools Int'l,* No. C97–1748, (W.D. Wash. filed Nov. 7, 1997) (Order for Permanent Injunction and Final Judgment entered on Jan. 12, 1999); *FTC* v. *Woofter Inv. Corp.,* No. CV–S–97–00515–LDG (RLH), (D. Nev. filed May 12, 1997) (Stipulated Order for Permanent Injunction and Final Judgment entered on Dec. 28, 1998).

[163] *See, e.g., FTC* v. *Baylis Co., Inc.,* No. 94–0017–S–LmB (D.C. Idaho filed Jan. 19, 1994) (misrepresented non-profit status); *FTC* v. *Marketing Twenty-One,* No. CV–S–94–00624–LDG (LRL) (D.C. Nev. filed July 13, 1994)

Continued

• That any charitable contribution is tax deductible in whole or in part;[164]

• The purpose for which any charitable contribution will be used; [165]

• The percentage or amount of any charitable contribution that will go to a charitable organization or to any particular charitable program after any administrative or fundraising expenses are deducted; [166]

• Any material aspect of a prize promotion including, but not limited to: the odds of being able to receive a prize; the nature or value of a prize; or that a charitable contribution is required to win a prize or to participate in a prize promotion;[167]

• In connection with the sale of advertising, the purpose for which the proceeds from the sale of advertising will be used; that a purchase of advertising has been authorized or approved by any donor; that any donor owes payment for advertising; or the geographic area in which the advertising will be distributed; [168] or

• A seller's or telemarketer's affiliation with, or endorsement or sponsorship by, any person or government.[169]

Each of these misrepresentations is an appropriate addition to the list of defined deceptive telemarketing practices prohibited in § 310.3 of the TSR, and inclusion of each in the TSR is necessary to prevent consumers solicited for charitable contributions from being deceived. Deception occurs if there is a representation, omission, or practice that is likely to mislead consumers acting reasonably under the circumstances and the representation, omission, or practice is material.[170] Where fundraising telemarketers falsely represent any of the matters enumerated in the proposed provision, donors are likely to be misled. False representations of material facts are likely to mislead.[171] This is so in the context of purchases of goods or services or other commercial transactions, and there is no material distinction that would render this principle any less valid in the context of charitable solicitations. Moreover, it is reasonable to interpret a fundraising telemarketer's representations about any of these matters to mean what they seem on their face to mean. Finally, in the Commission's enforcement experience, often such representations are express, and therefore presumptively material.[172] Even where the misrepresentations are implied, they would still likely influence a prospective donor's decision whether to make a contribution. Thus, misrepresentation of any of these seven categories of material information is deceptive, in violation of section 5 of the FTC Act.

D. Section 310.4—Abusive Telemarketing Acts or Practices

The Telemarketing Act authorizes the Commission to prescribe rules ''prohibiting deceptive telemarketing acts or practices and *other abusive telemarketing acts or practices*.''15 U.S.C. 6102 (a)(1)(emphasis added). The Act does not define the term ''abusive telemarketing act or practice.'' It directs the Commission to include in the TSR provisions addressing three specific ''abusive'' telemarketing practices, namely, for any telemarketer to: (1) ''Undertake a pattern of unsolicited telephone calls which the reasonable consumer would consider coercive or abusive of such consumer's right to privacy;'' (2) make unsolicited phone calls to consumers during certain hours of the day or night; and (3) fail to ''promptly and clearly disclose to the person receiving the call that the purpose of the call is to sell goods or services and make such other disclosures as the Commission deems appropriate, including the nature and price of the goods and services.'' 15 U.S.C. 6102(a)(3). The Act does not limit the Commission's authority to address abusive practices beyond these three practices legislatively determined to be abusive.[173] Accordingly, the Commission adopted a rule that addresses the three specific practices mentioned in the statute, and, additionally, five other practices that the Commission determined to be abusive under the Act.

Each of the three abusive practices enumerated in the Act implicates consumers' privacy. In fact, with respect to the first of these practices, the explicit language of the statute directs the FTC to regulate ''calls which the reasonable consumer would consider coercive or abusive of such consumer's *right to privacy*.'' 15 U.S.C.

(misrepresented purpose as soliciting contributions for non-existent entity named ''For the Children''); *FTC* v. *Voices for Freedom,* No. 92–1542–A (E.D. Va.. filed Oct. 21, 1991) (falsely obtained IRC 501(c)(3) status and misrepresented mission as assisting soldiers in Operation Desert Storm). *See also* Fla. Stat. ch. 496.415(7) (2000); Ariz. Rev. Stat. § 6561(3) (2001).

[164] *See, e.g., FTC* v. *Thadow, Inc.,* No. CV–S–95–75–HDM (LRL) (D.C. Nev. filed Jan. 25, 1995); *FTC* v. *United Holdings Group, Inc.,* No. CV–S–94–331–LDG (RLH) (D.C. Nev., filed April 5, 1994); *Marketing Twenty-One,* No. CV–S–94–00624–LDG (LRL). *See also* Minn Stat. Ann. § 309.556(1)(b) (West 2000).

[165] The Commission intends that term ''purpose'' be interpreted broadly to include, among other things, whether the charitable contribution would benefit any particular individual, group, or locality, as well the way in which these entities would be helped, such as by the provision of food, shelter, etc. *See, e.g., FTC* v. *Gold,* No. CV 99–2895 CBM (RZx) (C.D. Calif. filed Nov. 9, 1998) (misrepresenting that contributions would *inter alia,* support local firefighters, buy wheelchairs for veterans or fund parties for hospitalized children); *FTC* v. *Image Sales & Consultants, Inc.* No. 1:97 DV 0131 (N.D. Inc., filed Apr. 7, 1997); *FTC* v. *Saja,* No. CIV–97–0666 PHX sm (D.C. Ariz. filed Mar. 31, 1997) (misrepresenting that contributions would buy necessary equipment or fund death benefits for firefighters or law enforcement officers in the donors' local communities); *See also* Ariz. Rev. Stat. § 4406561(4), (5) (2001); Fla. Stat. ch. 496.415(3),(4) (2000); Md. Code. Ann. Business Regulations § 6–609, 611 (2000). *See also, California* v. *Jewish Educ. Ctr.,* No. 987396 (Super. Ct. Cal. filed Nov. 14, 1997) (misrepresenting that funds raised through car donations would support needy immigrant families). *See also* Ariz. Rev. Stat. § 6561(3) (2001); Ind. Code Ann. § 23–7–8–7 (Michie 2001); Md. Code Ann., Business Regulations § 6–610 (2000); N.M. Stat. Ann. § 57–22–6.3 (Michie 2001); N.Y. Exec. Law § 172–d (Consol. 2001).

[166] *See, e.g., Voices for Freedom,* No. 92–1542–A; *Gold,* No. SACV 98–968 LHM (EEx); *Baylis,* No. 94–0017–S–LmB; *Marketing Twenty-One. See also California* v. *Jewish Educ. Ctr. See also* Fla. Stat. ch. 496.415(8); N.Y. Exec. Law § 172–d(4) (Consol. 2001); Pa. Stat. Ann. tit. 10 § 162.15(A)(9) (West 2000).

[167] *See, e.g., United Holdings Group, Inc.,* No. CV–S–94–331; *Marketing Twenty-One* (misrepresented value of prizes being offered in exchange for contributions of $700 to $1500); *FTC* v. *NCH, Inc.,* No. CV–S–94–00138–LDG (LRL) (D.C. Nev. filed July 13, 1994) (misrepresented that donors would receive a specific prize in return for their contribution); *FTC* v. *International Charity Consultants, Inc.,* No. CV–S–94–00195–DWH (LRL) (D.C. Nev. filed Mar. 1, 1994) (misrepresented odds of winning valuable prizes purportedly offered in exchange for contributions).

[168] *See, e.g., FTC* v. *Southwest Mktg. Concepts,* No. H–97–1070 (S.D. Texas filed Apr. 1, 1997); *Saja; FTC* v. *Dean Thomas Corp.,* No. 1:97 CV 0129 (N.D. Ind. filed Apr. 7, 1997); *FTC* v. *The Century Corp.,* No. 1:97 CV 0130 (N.D. Ind. filed Apr. 7, 1997); *Image Sales & Consultants,* No. 1:97 CV 0131; *FTC* v. *Omni Advertising,* No. 1:98 CV 0301 (N.D. Ind. filed Oct. 5, 1998); *FTC* v. *T.E.M.M. Mktg., Inc.,* No. 1:98 CV 0300 (N.D. Ind. filed Oct. 5, 1998); *FTC* v. *Tristate Advertising Unlimited, Inc.,* No. 1:98 CV 302 (N.D. Ind, filed Oct 5, 1998); *Gold; Eight Point Communications,* No. 98–74855 (D.C. Mich. filed Nov. 10, 1998). *See also* Pa. Stat. Ann. tit. 10 § 162.15(A)(11) (West 2000).

[169] *See, e.g. FTC* v. *Eight Point Communications* (telemarketers misrepresented affiliation with local police and fire departments); *FTC* v. *Gold,* No. SACV 98–968 LHM (EEx) (C.D. Calif. filed Nov. 9, 1998) (telemarketers falsely identified selves as members of local law enforcement); *Saja* (telemarketers falsely claimed to be firefighters or police officers). *See also Commonwealth* v. *Ranick Enters.,* Inc., No. 1997–06464–E (Super. Ct. Ma., filed June 26, 2001) (telemarketers misrepresented affiliation with local police and fire departments).

[170] *Cliffdale Assocs.,* 103 F.T.C. at 165.

[171] *Thompson Medical Co.,* 104 F.T.C. 648, 818 (1984), *aff'd,* 791 F.2d 189 (D.C. Cir. 1986), *cert. denied,* 479 U.S. 1086 (1987).

[172] *Cliffdale Assocs.,* 103 F.T.C. at 182.

[173] *See* Kenneth Culp Davis & Richard J. Pierce, Jr., Administrative Law Treatise Section 3.2 (3rd ed. 1994) (noting that agencies have the power to ''fill any gaps'' that Congress either expressly or implicitly left to the agency to decide pursuant to the decision in *Chevron* v. *Natural Resources Defense Council,* 467 U.S. 837 (1984)). It is, therefore, permissible for agencies to engage in statutory construction to resolve ambiguities in laws directing them to act, and courts must defer to this administrative policy decision.

6102(a)(3)(A) (emphasis added). Similarly, by directing that the Commission regulate the times when telemarketers could make unsolicited calls to consumers in the second enumerated item, 15 U.S.C. 6102(a)(3)(B), Congress recognized that telemarketers' right to free speech is in tension with and encroaches upon consumers' right to privacy within the sanctity of their homes; the calling times limitation protects consumers from telemarketing intrusions during the late night and early morning, when the toll on their privacy from such calls would likely be greatest. The third enumerated practice, 15 U.S.C. 6102(a)(3)(C), also bears a relation to privacy, in that it requires the consumer be given information promptly that will enable him or her to decide whether to allow the infringement on his or her time and privacy to go beyond the initial invasion. Congress provided authority for the Commission to curtail these practices that impinge on consumers' right to privacy but are not likely deceptive under FTC jurisprudence. This recognition by Congress that even non-deceptive telemarketing business practices can seriously impair consumers' right to be free from harassment and abuse and its directive to the Commission to reign in these tactics, lie at the heart of § 310.4 of the TSR.

The practices not specified as abusive in the Act, but determined by the Commission to be abusive and prohibited in the original rulemaking are: (1) Threatening or intimidating a consumer, or using profane or obscene language; (2) ''causing any telephone to ring, or engaging any person in telephone conversation, repeatedly or continuously with intent to annoy, abuse, or harass any person;'' (3) requesting or receiving payment for credit repair services prior to delivery and proof that such services have been rendered; (4) requesting or receiving payment for recovery services prior to delivery and proof that such services have been rendered; and (5) ''requesting or receiving payment for an advance fee loan when a seller or telemarketer has guaranteed or represented a high likelihood of success in obtaining or arranging a loan or other extension of credit.''

The first two of these are directly consistent with the Act's emphasis on privacy protection, and with the intent, made explicit in the legislative history, that the TSR address these particular practices.[174] In the Statement of Basis and Purpose for the Rule, the Commission stated, with respect to the prohibition on threats, intimidation, profane and obscene language, that these tactics ''are clearly abusive in telemarketing transactions.'' 60 FR 30415. The Commission also noted that the commenters supported this view, and specifically cited the fact that ''threats are a means of perpetrating a fraud on vulnerable victims, and that many older people can be particularly vulnerable * * *'' *Id.*

The remaining three abusive practices identified in the Rule—relating to credit repair services, recovery services, and advance fee loan services—were included in the rule under the Telemarketing Act's grant of authority for the Commission to prescribe rules prohibiting other unspecified abusive telemarketing acts or practices. The Act gives the Commission broad authority to identify and prohibit additional abusive telemarketing practices beyond the specified practices that implicate privacy concerns,[175] and gives the Commission discretion in exercising this authority.[176]

As noted above, some of the practices previously prohibited as abusive under the Act flow directly from the Telemarketing Act's emphasis on protecting consumers' privacy. When the Commission seeks to identify practices as abusive that are less distinctly within that parameter, the Commission now thinks it appropriate and prudent to do so within the purview of its traditional unfairness analysis as developed in Commission jurisprudence[177] and codified in the FTC Act.[178] This approach constitutes a reasonable exercise of authority under the Telemarketing Act, and provides an appropriate framework for several provisions of the original rule as well as for the proposed prohibition on the transfer of preacquired billing information, as discussed below. Whether privacy-related intrusions or concerns might independently give rise to a Section 5 violation outside of the Telemarketing Act's purview is not addressed or affected by this analysis.

The abusive practices relating to credit repair services, recovery services, and advance fee loan services each meet the criteria for unfairness. An act or practice is unfair under Section 5 of the FTC Act if it causes substantial injury to consumers, if the harm is not outweighed by any countervailing benefits, and if the harm is not reasonably avoidable.[179] An important characteristic common to credit repair services, recovery services, and advance fee loan services is that in each case the offered service is fundamentally bogus. It is the essence of these schemes to take consumers' money for services that the seller has no intention of providing and in fact does not provide. Each of these schemes had been the subject of large numbers of consumer complaints and enforcement actions. Thus, each caused substantial injury to consumers. Amounting to nothing more than outright theft, these practices conferred no potentially countervailing benefits. Finally, having no way to know these offered services were illusory, consumers had no reasonable means to avoid the harm that resulted from accepting the offer. Thus, these practices meet the statutory criteria for unfairness, and accordingly, the remedy imposed by the Rule to correct them is to prohibit requesting or receiving payment for these services until after performance of the services is completed.

Section 310.4(a)—Abusive Conduct Generally

Section 310.4(a) of the Rule sets forth specific conduct that is considered to be an ''abusive telemarketing act or practice'' under the Rule. MPA was the only commenter to address § 310.4 specifically, expressing its support for this section as a whole and noting that the practices listed as ''abusive'' clearly fall outside the practices of legitimate

[174] ''With respect to the bill's reference to 'other abusive telemarketing activities' * * * the Committee intends that the Commission's rulemaking will include proscriptions on such inappropriate practices as threats or intimidation, obscene or profane language, refusal to identify the calling party, continuous or repeated ringing of the telephone, or engagement of the called party in conversation with an intent to annoy, harass, or oppress any person at the called number. The Committee also intends that the FTC will identify other such abusive practices that would be considered by the reasonable consumer to be abusive and thus violate such consumer's right to privacy.'' H.R. Rep. No. 20, 103rd Congress, 1st Sess. (1993) at 8.

[175] 15 U.S.C. 6102(a)(1).

[176] The ordinary meaning of ''abusive'' is (1) ''wrongly used; perverted; misapplied; catachrestic;'' (2) ''given to or tending to abuse,'' (which is in turn defined as ''improper treatment or use; application to a wrong or bad purpose''). Webster's International Dictionary, Unabridged 1949.

[177] *See* Letter from the FTC to Hon. Wendell Ford and Hon. John Danforth, Committee on Commerce, Science and Transportation, United States Senate, Commission Statement of Policy on the Scope of Consumer Unfairness Jurisdiction, appended to *International Harvester Co.,* 104 F.T.C. 949, 1064 (1984); Letter from the FTC to Hon. Bob Packwood and Hon. Bob Kasten, Committee on Commerce, Science and Transportation, United States Senate, reprinted in FTC Antitrust & Trade Reg. Rep. (BNA) No. 1055, at 568–70 (Mar. 5, 1982); *Orkin Exterminating Company, Inc.* v. *FTC,* 849 F.2d 1354, 1363–68, *reh'g denied,* 859 F.2d 928 (11th Cir. 1988), *cert. denied,* 488 U.S. 1041 (1989).

[178] 15 U.S.C. 45(n).

[179] *Id.*

companies.[180] None of the comments recommended that changes be made to the current wording of § 310.4(a)(1)–(3); nor has the Commission's enforcement experience revealed any difficulty with these provisions that would warrant amendment. Therefore, the language in these provisions remains unchanged in the proposed Rule.[181]

It is important to note, however, that Rule amendments mandated by the USA PATRIOT Act expand the reach of § 310.4(a) to encompass the solicitation of charitable contributions. The section begins with the statement ''It is an abusive telemarketing act or practice and a violation of this Rule for any seller, or any telemarketer to engage in [the conduct specified in subsections (1) through (6) of this provision of the Rule.]'' Because the proposed Rule modifies the definitions of ''telemarketing'' and ''telemarketer'' to encompass the solicitation of charitable contributions, § 310.4(a) now applies to telemarketers engaged in the solicitation of charitable contributions, and each of the prohibitions in § 310.4(a) will therefore now apply to those telemarketers soliciting on behalf of either sellers or charitable organizations. It is unlikely that §§ 310.4(a)(1)–(4) will have any significant impact on telemarketers engaged in the solicitation of charitable contributions, since those sections all deal with practices that are commercial in nature and not associated with charitable solicitations. Section 310.4(a)(5) & (6) however, address practices that are not necessarily confined to telemarketing to induce purchases of goods or services, and therefore may have an impact upon telemarketers engaged in the solicitation of charitable contributions.

Commenters did suggest changes to § 310.4(a)(4) (which addresses telemarketing of advance fee loans) and identified other telemarketing practices that should be declared ''abusive telemarketing acts or practices.'' [182] Each of those suggestions, and the Commission's reasoning in accepting or rejecting it, will be discussed in more detail below.

Section 310.4(a)(4)—Advance Fee Loans

Section 310.4(a)(4) prohibits requesting advance payment for obtaining a loan or other extension of credit when the seller or telemarketer has represented a high likelihood that the consumer will receive the loan or credit. NCL reported that the number of complaints it received about such advance fee loan schemes has risen steeply in the five years since the Rule was promulgated.[183] In 1995, advance fee loan complaints ranked 15th in volume; in 1997, they had risen to number two.[184] NCL speculates that one reason for the increased number of complaints about fraudulent advance fee loans is that consumers may be confused about whether and under what circumstances fees are legitimately required for different types of loans, and thus may have an increased vulnerability to fraudulent advance fee loan schemes.[185]

As a primary example of such consumer confusion, NCL reports that it receives numerous complaints about advance fee credit cards.[186] NCL states that, unlike the deposits requested for legitimate secured credit cards, these offers request an advance fee for ''processing'' or for an ''annual fee'' for a ''guaranteed'' credit card. Moreover, NCL's complaints show that consumers either do not receive the cards at all or receive a card that is good only for purchasing items from the card-issuer's catalog.[187] NCL suggested that consumers often do not understand that legitimate credit card companies do not require a fee from a consumer in advance of providing a non-secured credit card.[188] NCL recommended that § 310.4(a)(4) of the Rule be modified specifically to prohibit advance fees for credit cards, suggesting that such a ban would make it easier for consumers to distinguish between legitimate and fraudulent credit card offers.[189]

The Commission believes that the language of § 310.4(a)(4) already prohibits such advance fee credit card offers via telemarketing.[190] In fact, both the Commission and the State Attorneys General have brought cases challenging advance fee credit card offers as violations of the Rule.[191] Therefore, the provision's language remains unchanged in the proposed Rule.

Section 310.4(a)(5)—Preacquired Account Telemarketing

A major concern identified by many commenters was ''preacquired account telemarketing,'' a phrase coined to describe those instances when a telemarketer already possesses information necessary to bill charges to a consumer at the time a telemarketing call is initiated. Typically, the preacquired billing information is a credit card number (and related information),[192] acquired from a

[180] *See* MPA at 9.

[181] Section 310.4(a)(1) prohibits as an abusive practice ''threats, intimidation, or the use of profane or obscene language.'' Section 310.4(a)(2) prohibits requesting advance payment for so-called ''credit repair'' services. NCL noted that the level of complaints about such bogus credit repair services, relative to other products and services, has remained relatively low since the Rule was promulgated, annually ranking 23rd or 24th on the list of the most frequent complaints since 1995. NCL at 11. Section 310.4(a)(3) prohibits requesting advance payment for the recovery of money lost by a consumer in a previous telemarketing transaction. NCL reported that the number of complaints about such fraudulent ''recovery'' services declined dramatically after the Rule was promulgated, from ranking 3rd in 1995 to 25th in 1997. *Id.*

[182] *See, e.g.,* AARP at 5 (ban use of courier pickups); Jordan, generally (ban use of prisoners as telemarketers); NAAG at 19–20 (ban targeting vulnerable groups and ban sale of lists of victims); NCL at 12 (ban advance fees for credit cards).

[183] FTC complaint data mirrors that provided by NCL, with advance fee loan complaints rising during the period from 1995 to 2000.

[184] NCL at 11.

[185] *See* NCL at 11; Rule Tr. at 378–380.

[186] NCL at 12; Rule Tr. at 297–298, 376.

[187] NCL at 12; Rule Tr. at 297–298, 377.

[188] Rule Tr. at 377–378.

[189] NCL at 12; Rule Tr. at 297–299, 376–380.

[190] *See* Rule Tr. at 297–299, 377–380. Even where the advance fee credit card offers described by NCL do not make promises about a ''high likelihood of success'' in obtaining the card, thus falling outside the parameters of § 310.4(a)(4), the offers, in most cases, would still violate the Rule because they fail to make the disclosures of material information required by § 310.3(a)(1), make one or more misrepresentations in violation of § 310.4(a)(2), and/or make false or misleading statements to induce payment in violation of § 310.4(a)(4). Of course, these provisions apply only to credit card offers made by individuals or entities not exempt from coverage under the FTC Act, and so would not apply to advance fee credit cards marketed by a financial institution that is exempt from the Commission's jurisdiction under Section 5 of the FTC Act. 15 U.S.C. 45(a)(2).

[191] Rule Tr. at 378. To date, the Commission and the State Attorneys General have launched five law enforcement ''sweeps'' targeting corporations and individuals that promise loans or credit cards for an advance fee, but never deliver them. A recent sweep was announced June 20, 2000, and involved five cases filed by the FTC, 13 actions taken by State officials, and three cases filed by Canadian law enforcement authorities. *See,* ''FTC, States and Canadian Provinces Launch Crackdown on Outfits Falsely Promising Credit Cards and Loans for an Advance Fee,'' FTC press release dated June 20, 2000. Among the most recent FTC cases targeting advance fee loans, four involved advance fee credit card schemes: *FTC* v. *Financial Svcs. of North America,* No. 00–792 (GEB) (D.N.J. filed June 9, 2000); *FTC* v. *Home Life Credit,* No. CV00–06154 CM (Ex) (C.D. Cal. filed June 8, 2000); *FTC* v. *First Credit Alliance,* No. 300 CV 1049 (D. Conn. filed June 8, 2000); and *FTC* v. *Credit Approval Svc,* No. G–00–324 (S.D. Tex. filed June 7, 2000). In addition, another case against a fraudulent credit card loss protection seller also included elements of illegal advance fee credit card fees. *FTC* v. *First Capital Consumer Membership Svcs, Inc.,* Civil No. 00–CV–0905C(F) (W.D.N.Y. filed Oct. 23, 2000).

[192] *See* Rule Tr. at 100–101, which cites a press release issued by the Minnesota Attorney General on the lawsuit that Minnesota brought against U.S. Bancorp for selling customer information. In that case, Minnesota alleged that U.S. Bancorp transferred large amounts of sensitive customer information to Memberworks, Inc., a telemarketing firm, for $4 million, plus commissions on any completed sales. The customer information transferred from U.S. Bancorp to Memberworks included, in addition to account number, the customer's medical status, homeowner status, occupation, Social Security number, date of birth, and payment history data, among other things. *See*

financial institution or some other third party. However, sellers and telemarketers also obtain other types of billing information in advance of initiating a telemarketing campaign, including debit card account numbers, checking account numbers, mortgage account numbers and the like.[193] Usually, the acquisition of preacquired billing information occurs through a joint marketing agreement or other arrangement in which, for example, Seller A provides access to its customer billing information to Seller B for the purposes of marketing Seller B's goods or services, in exchange for a percentage of each sale.[194] Telemarketers and sellers increasingly rely on such affinity relationships to up-sell goods and services to the customers of companies with which they have developed a business relationship, often transferring billing information as well as contact information.[195] There are, however, a variety of scenarios in which preacquired account telemarketing may occur. Enhanced database technology has also made it practical for sellers to retain and reuse the billing information of customers with whom they have an ongoing business relationship, yielding yet another source of preacquired billing information—the seller's own files.[196]

The issue of the use in telemarketing of preacquired billing information was addressed by a number of commenters, and also was the subject of extensive discussion at the July Forum.[197] Record evidence presented by businesses and industry representatives indicates that the use of preacquired billing information is quite common,[198] and that it allegedly saves time during telemarketing calls,[199] presumably saving money as well. In the context of up-selling and affinity marketing, which were noted as increasingly common forms of marketing at the July Forum, the use of preacquired billing information is universal and ''very important'' to telemarketers.[200]

Comments from law enforcement representatives, consumer advocacy groups, and consumers criticized the use of preacquired billing information by telemarketers for two specific reasons. First, NAAG suggested that the practice ''presents inherent opportunities for abuse and deception,'' including the billing of unauthorized charges to the customer's account.[201] According to NAAG, this practice ''generates a significant number of vehement consumer complaints about unauthorized account charges,'' [202] a position with which NCL concurred at the July Forum.[203] LSAP echoed these concerns in its comments, observing that, ''(a)s a result of (the) ability to preacquire such accounts, (the State of) Minnesota is seeing * * * telemarketers charge customers' accounts with questionable or complete lack of consumer authorization.''[204]

These commenters noted the particular dangers for consumers that arise when preacquired billing information is used in combination with free trial offers and/or negative option plans. NAAG cited club membership programs sold on a free trial basis as an example of why this combination is troubling. Often consumers consent to having additional information about an offered club membership mailed for their review, incorrectly assuming that since they have not provided their billing information, they will not be charged unless they affirmatively take some action to accept the offer.[205] Many consumers who complain about such free trial club membership programs claim to have been told neither that they would be charged, nor that the telemarketer already had their billing information.[206] When they find they have been charged, many consumers are shocked and mystified, wondering how the telemarketer obtained their billing information.[207]

The second criticism of the use in telemarketing of preacquired billing information that commenters identified is that when the seller avoids the necessity of persuading the consumer to demonstrate her consent by divulging her billing information, the usual sales dynamic of offer and acceptance is inverted.[208] One commenter suggested that ''(a) typical telemarketing sale not involving preacquired accounts requires that the consumer provide his or her credit card or other account number to the telemarketer, or that the consumer send a check or sign a contract in a later transaction. * * * (By contrast, t)he pre-acquired account telemarketer not only establishes the method by which the consumer will provide consent, but also decides whether the consumer actually consented.'' [209] Thus, the most fundamental tool consumers have for controlling commercial transactions—withholding the information necessary to effect payment unless and until they have consented to buy—is ceded, without the consumers' knowledge, to the seller before the sales pitch ever begins.[210]

In their comments, various law enforcement representatives and consumer advocacy groups offered potential solutions to the deception they view as resulting from the use of preacquired billing information. NAAG suggested that the Rule require telemarketers to obtain written consent from any customer before charging a preacquired account.[211] LSAP recommended expanding the express verifiable authorization provision of § 310.3(a)(3) to credit card purchases, and requiring that where preacquired account telemarketing occurs, express

also, Lornet Turnbull, ''Credit-card Issuer Settles Charges of Violating Consumer Privacy Laws,'' *The Columbus Dispatch,* (Sept. 26, 2000), p. 1E.

[193] Consumers have reported to various law enforcement agencies, including the Commission, that unauthorized charges due to preacquired account telemarketing have appeared on mortgage statements, checking accounts, and telephone bills. *See, e.g.,* LSAP at 2; NAAG at 10.

[194] Rule Tr. at 89–90; AARP at 4.

[195] *See* Rule Tr. at 95–96, 176.

[196] For example, a customer who places quarterly orders for contact lenses by calling a particular lens retailer may provide her billing information in an initial call, with the understanding and intention that the telemarketer will retain it so that, in any subsequent call, the retailer has access to this billing information. As was observed by participants in the July Forum, there may be certain benefits that accrue to consumers from the retention of their billing information by retailers with whom they have a continuing relationship, provided that customers understand the nature of their relationship with the particular seller, as well as the nature of any transaction for which their billing information may be used by that seller. During the July Forum, one commenter gave a non-telemarketing example of the possible benefits that might be enjoyed by a consumer who uses a website such as Priceline.com, to which she provides her credit card number and related information, with the intention that it be retained as a convenience to her in her ongoing business relationship with the company. Rule Tr. at 91–92. As another commenter pointed out, the key to this transaction is the fact that the consumer makes the decision to supply the billing information to the seller, and understands and expects that the information will be retained and that the account may be charged in the future, should the consumer authorize another purchase. *Id.* at 102.

[197] *See generally* Hollingsworth at 1; LSAP at 1–4; NAAG at 10–13; Texas at 1–2; Rule Tr. at 87–129, 311.

[198] *See Id.* at 88, 95–96.

[199] *See Id.* at 90.

[200] MPA stated that the use of preacquired account information is ''very important'' in affinity marketing campaigns. Rule Tr. at 176–177.

[201] NAAG at 10.

[202] *Id.* at 11.

[203] Rule Tr. at 91 (''The National Consumers League is really concerned about what we see as the growing use of preacquired account information, and it's not only credit card accounts. It's bank accounts. This pops up in complaints that we receive about buyer's clubs, about credit card loss protection plans and certain other telemarketing fraud categories.''), 113–114.

[204] LSAP at 2.

[205] *See* NAAG at 11–12.

[206] *See* Hollingsworth at 1; Rule Tr. at 113–114.

[207] *Id.*

[208] *See* NAAG at 10.

[209] *Id.* at 10–11.

[210] *Id.* at 10 (''Other than a cash purchase, providing a signature or an account number is a readily recognizable means for a consumer to signal assent to a deal. Preacquired account telemarketing removes these short-hand methods for the consumer to control when he or she has agreed to a purchase.'').

[211] *Id.* at 13.

authorization be obtained in the form of an oral or written statement from the account holder disclosing the last four digits of the account number to be charged.[212] Texas opined that the Rule should require telemarketers to disclose: (a) That the telemarketer is already in possession of the consumer's billing information; (b) the anticipated billing date; and (c) the total amount that the consumer is agreeing to pay.[213]

Third-party sharing of preacquired billing information is an abusive practice. The TSR, as originally adopted, implicitly condemned the then-unknown practice of using preacquired billing information in telemarketing, and the Statement of Basis and Purpose expressly so stated.[214] Nevertheless, the record developed in this proceeding indicates that the problematic trafficking in and use of consumers' billing information has become prevalent in the marketplace. Therefore, the Commission believes the Rule must address this in a more explicit and straightforward fashion.

The Commission is persuaded from the record evidence and its own law enforcement experience that receiving from any person other than the consumer for use in telemarketing any consumer's billing information, or disclosing any consumer's billing information to any person for use in telemarketing constitutes an abusive practice within the meaning of the Telemarketing Act. The practice meets the Commission's traditional criteria for unfairness, in accordance with the Commission's view, set forth above, that the authority under the Telemarketing Act to prohibit ''abusive'' practices not focusing on consumers'' privacy should be exercised within the framework of that more rigorous legal standard. The Commission believes that the sharing of consumers' preacquired billing information causes or is likely to cause substantial injury to consumers which is not reasonably avoidable by consumers themselves and not outweighed by countervailing benefits to consumers or to competition. 15 U.S.C. 45(n).

In particular, the Commission questions whether benefits to consumers or to competition could accrue from preacquired account telemarketing sufficient to outweigh the injury that the practice causes or is likely to cause. Although some industry members have claimed that preacquired account information generates efficiencies, the Commission has no data that identify or quantify specific efficiency gains. Moreover, other industry members have maintained that there is no legitimate reason for sharing account information.

Finally, consumers are powerless to avoid the injury that can result from third party sharing of preacquired billing information, since making a specific purchase requires divulging one's account information; there is nothing in such a transaction to suggest that the seller or telemarketer will pass it along to third parties or use it for any purpose other than to bill charges for that particular transaction.[215]

Accordingly, the Commission proposes, in § 310.4(a)(5), to prohibit receiving from any person other than the consumer or donor for use in telemarketing any consumer's or donor's billing information, or disclosing any consumer's or donor's billing information to any person for use in telemarketing. During the comment period that occurred prior to enactment of the USA PATRIOT Act, evidence of abuse of donors' billing information was neither specifically sought, nor received. Nevertheless, pursuant to that Act, the Commission proposes to include the term ''donor'' in this provision to make it clear that telemarketers engaged in the solicitation of charitable contributions must comply. Nothing in the text or legislative history of the USA PATRIOT Act suggests that Congress intended to exclude telemarketers engaged in the solicitation of charitable contributions from provisions like this that target abusive telemarketing practices. The Commission believes that the harm to donors would be no less than the harm to consumers were a telemarketer to receive from or disclose to third parties the billing information of donors.

Section 310.4(a)(6)—Blocking Caller Identification Service (''Caller ID'') Information

Proposed § 310.4(a)(5) would prohibit blocking, circumventing, or altering the transmission of, or directing another person to block, circumvent or alter the transmission of, the name and telephone number of the calling party for purposes of caller identification service (''Caller ID'') purposes. The Commission believes this proposed provision is necessary to protect consumers' privacy under the Telemarketing Act. The proposed provision would include a proviso that it is not a violation to substitute, for the phone number used in making the call, the actual name of the seller or charitable organization, and the seller's or charitable organization's customer or donor service telephone number, which is answered during regular business hours.[216] The scope of this provision extends to cover the solicitation by telemarketers of charitable contributions, pursuant to section 1011 of the USA PATRIOT Act. The Commission believes there to be no meaningful distinction between telemarketers calling on behalf of sellers and telemarketers calling on behalf of charitable organizations that would merit excluding the latter from this provision of the Rule. In fact, the record evidence amassed during the review of the Rule fully supports the proposition that consumers using caller identification technology to screen telemarketers want to know who is calling them, regardless of whether the caller is soliciting them to purchase goods or services or to make a charitable contribution. Moreover, the mandate of the Telemarketing Act regarding the right to privacy of those called by telemarketers, which is in no way altered by the USA PATRIOT Act, supports coverage of the solicitation of charitable contributions under this provision of the Rule.

The Commission received numerous comments from consumers and others about the fact that Caller ID routinely fails to display the names and numbers of telemarketers. These commenters noted that the consumer's Caller ID device often displays only a message that the identity of the caller is ''unavailable,'' the caller is ''out of the area,'' or some similar phrase, depending on the service or device the consumer uses to receive this Caller ID information.[217] The record also contains extensive discussion of the disparate views as to why Caller ID equipment often does not display the telemarketer's identity and about the technological and economic feasibility of transmitting that information.[218] Although some commenters argue that some telemarketers deliberately block the

[212] LSAP at 4.

[213] Texas at 1–2. The suggested disclosure that the telemarketer already possesses the customer's billing information was echoed by some of the industry participants during the July Forum. *See* Rule Tr. at 177.

[214] ''(A) telemarketer or seller who fails to provide the (§ 310.3(a)(1)) disclosures until the consumer's payment information is in hand violates the Rule.'' 60 FR 43846 (Aug. 23, 1995).

[215] *See* Hollingsworth at 1; NAAG at 10–11, 20; Texas at 1–2; Rule Tr. at 102–107.

[216] For a discussion of the Rule's definition of ''caller identification service,'' see the explanation of § 310.2(d), above.

[217] *See, e.g.,* Baressi at 1; Bell Atlantic at 8; Blake at 1; Collison at 1; Lee at 1; LeQuang at 1; Mack at 1; Sanford at 1.

[218] *See, e.g.,* Bell Atlantic at 8; Lesher at 1; DNC Tr. at 46–47, 106–123, 263; Rule Tr. at 19–49.

transmission of Caller ID information,[219] there is record evidence indicating that it is technically impossible for many telemarketers to transmit Caller ID information because of the type of telephone system they use.[220] Many telemarketers use a large ''trunk side'' connection (also known as a trunk or T–1 line), which is cost-effective for making many calls, but cannot transmit Caller ID information.[221] Calls from these lines will display a term like ''unavailable'' on a Caller ID device, as described above.

Comments from representatives of the telemarketing industry state that, even if it were possible to transmit a name and telephone number, the information would be of little use to the consumer because the number shown most likely would be the number of the telemarketer's central switchboard or trunk exchange rather than a useful number, such as a customer service number, where the consumer could ask to be placed on a ''do-not-call'' list.[222]

Caller ID is an important tool for consumers, not only because it allows consumers to screen out unwanted callers, but also because it allows consumers to identify companies to contact to request to be placed on the company's ''do-not-call'' list.[223] If the telemarketer subverts the transmission of its name and telephone number for Caller ID purposes, the telemarketer denies the consumer the means to identify who and where the telemarketer is, and to whom the consumer can assert her ''do-not-call'' rights.[224] In order to enhance the usefulness of this tool, and to protect consumers' privacy and their right to be placed on a ''do-not-call'' list, a number of States have passed or are considering legislation regarding transmission of Caller ID information. One State legislative approach requires the seller or telemarketer to disclose its name and telephone number to any Caller ID device.[225] A second approach prohibits the deliberate blocking of Caller ID information.[226] Congress also has examined this issue; the most recent Congressional proposals have taken the same approaches as the States.[227]

Based on the record to date, it appears that the current state of technology may limit the ability of some telemarketers to transmit Caller ID information because of the type of phone line they use. However, the Commission recognizes that technology advances at a rapid pace in the telecommunications industry; what is impossible today may be commonplace in the future. Further, if additional legislation is passed requiring telemarketers to provide full, unmodified Caller ID information, the industry (including PBX vendors, call center solution providers, and other technology suppliers) may be forced to develop the appropriate technology to meet these regulatory mandates. Therefore, in Section IX of this Notice, the Commission requests comment on the following:

- Trends in telecommunications that might permit the transmission of full Caller ID information when the caller is using a trunk line or PBX system;
- How firms currently are meeting the regulatory requirements in those States that have passed such legislation; and
- The costs and benefits of complying with these requirements and with the Commission's proposed Rule provision.

Although current technological limitations may restrict transmission of Caller ID information along some types of phone lines, the Commission believes that there is no reason that a legitimate seller, charitable organization, or telemarketer would choose to subvert the display of information sent or transmitted to consumers' Caller ID equipment.[228]

Therefore, the Commission proposes in § 310.4(a)(5) to specify that it is an abusive telemarketing act or practice for a seller, charitable organization, or telemarketer to deliberately block, circumvent, or interfere with the information displayed on Caller ID equipment. The proposed provision states that it is not a violation to substitute the actual name of the seller or charitable organization, and the seller's or telemarketer's customer or donor service number, which is answered during regular business hours, for the phone number used in making the call.

As noted, subverting the transmission of the name or telephone number of the calling party for caller identification service purposes denies the person

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[219] Bell Atlantic at 8; Lesher at 1; DNC Tr. at 46–47.

[220] Bell Atlantic at 8; DNC Tr. 109–110, 112–118, 263.

[221] Bell Atlantic at 8; Rule Tr. at 20–47. Bell Atlantic also states, however, that some telemarketers are using ''line side'' connections that are capable of transmitting Caller ID information, but choose to block its transmission. Bell Atlantic recommends that to the extent that is occurring, the Commission should prohibit telemarketers from blocking Caller ID. Bell Atlantic at 8. In this regard, the FCC has found that some PBX equipment has the capability of transmitting Caller ID information and also has the ability to suppress that information. *See Rules and Policies Regarding Calling Number Identification Service—Caller ID, Third Report and Order, Memorandum Opinion and Order on Further Reconsideration, and Memorandum Opinion and Order on Reconsideration,* FCC 97–103, CC Docket 91–281, 12 FCC Rcd 3867, 3882–84 (1997) (''Third Report and Order''). Among other issues, the Third Report and Order establishes new rules to govern PBX and related systems, requiring them to provide users (*i.e.,* calling parties) with some type of blocking and unblocking capabilities. Since the agency began its rulemaking in 1991, a major focus of the FCC proceeding has been to ensure the privacy of calling parties by providing the ability to block and unblock the transmission of calling party information.

[222] DNC Tr. at 113–114; Rule Tr. at 41–42.

[223] According to a Bell Atlantic survey of residential customers, three out of four customers buy Caller ID to help stop abusive telephone calls. Laurie Itkin, ''Caller ID Privacy Issues,'' 1 NCSL LegisBriefs (Nov. 1, 1993). Although Caller ID began as a local service, the advent of new switching technology (Signaling System Seven or ''SS7'' switching technology) has made it possible for Caller ID information to be transmitted with out-of-state calls. *See Report and Order and Further Notice of Proposed Rulemaking,* FCC 94–59, CC Docket 91–281, 9 FCC Rcd 1764 (1994) (''Report and Order'').

[224] LeQuang at 1.

[225] *See, e.g.,* New Hampshire (ch. 14, effective Jan.1, 1999) and Texas (Tex. Utilities Code Ann. § 55.1065), which require that, if a marketer leaves a message on an answering machine or uses an automatic dialing device (ADAD), the Caller ID display must include a telephone number at which the marketer may receive calls.

[226] *See, e.g.,* Alabama (Ala. Code § 8–19C–5(b)); Arizona (Ariz. Rev. Stat. § 44–1278 subsection B, paragraph 1); Georgia (Ga. Code Ann. § 46–5–27); Kansas (Kan. Stat. Ann. § 50–670(c)); Kentucky (Ky. Rev. Stat. Ann. § 367.46955(9); Michigan (Mich. Comp. Laws § 484.125, section 25(2)(b)); New Hampshire (N.H. Rev. Stat. Ann. § 359–E:5a); New York (NY General Business Law § 399–p); Tennessee (Tenn. Code Ann. § 65–4–403); Texas (Tex. Utilities Code Ann. § 55.1065); Utah (Utah Code Ann. § 13–25a–103(6)).

[227] H.R. 90 (the ''Know Your Caller Act of 2001'') (introduced by Rep. Frelinghuysen Jan. 3, 2001 and passed by the House on Dec. 4 2001) would prohibit telemarketers from interfering with or circumventing the consumer's Caller ID service. It also would require that the telemarketer display on the Caller ID equipment the name of the seller on whose behalf the call is being made and a valid, working telephone number the consumer may call to be placed on a ''do-not-call'' list. (These requirements would be implemented through FCC regulations.) A piece of proposed legislation in the previous Congress, H.R. 3180 (a bill to amend the Telemarketing Act) (introduced by Rep. Salmon) would have prohibited telemarketers from blocking their telephone number to evade a Caller ID device. Similar legislation was introduced in 2001: H.R. 232 (''Telemarketing Victims Protection Act'') (introduced by Rep. King); and S. 722 (''Telemarketer Identification Act of 2001'') (introduced by Sen. Frist).

[228] The FCC requires common carriers to provide a mechanism by which a line subscriber can block the display of his or her name and telephone number on a Caller ID device. Rule Tr. at 39–40; 47 CFR 64.1601(b). *See Rules and Policies Regarding Calling Number Identification Service—Caller ID, Memorandum Opinion and Order on Reconsideration, Second Report and Order and Third Notice of Proposed Rulemaking,* FCC 95–187, CC Docket No. 91–281, 10 FCC Rcd 11700, 11708 (1995) (''Second Report and Order''). However, such a blocking mechanism is intended to ensure the privacy of individual line subscribers, such as those with unlisted numbers, undercover law enforcement investigators, or those calling from battered women's shelters, whose safety might be jeopardized if Caller ID information were displayed when they made outgoing calls. No such privacy concerns pertain when sellers or telemarketers are initiating outbound sales solicitation calls. *See* Itkin, ''Caller ID Privacy Issues.''

called the means to know who and where the telemarketer is, and to whom a ''do-not-call'' demand should be directed. It is beyond cavil that this is the very type of practice Congress had in mind in directing that the Commission should ''identify other such abusive practices that would be considered by the reasonable consumer to be abusive and thus violate such consumer's right to privacy.'' [229] As such, the proposed prohibition directly advances the Telemarketing Acts' goal to protect consumers' privacy. Thus, the practice is abusive under the Telemarketing Act, 15 U.S.C. 6102(a)(1).

Section 310.4(b)—Pattern of Calls

Section 310.4(b)(1)(i) specifies that it is an abusive telemarketing practice to cause any telephone to ring, or to engage any person in telephone conversation, repeatedly or continuously, with intent to annoy, abuse, or harass any person at the called number. None of the comments recommended that changes be made to the current wording of § 310.4(b)(1)(i). Therefore, the language in that provision remains unchanged in the proposed Rule.[230] However, the expansion in scope of the TSR effectuated by the USA PATRIOT Act brings within the ambit of this provision telemarketers soliciting charitable contributions, as well as sellers and telemarketers making calls to induce the purchase of goods and services.

Commenters did suggest changes to § 310.4(b)(1)(ii) (the ''do-not-call'' provision) and to § 310.4(b)(2) (the ''safe harbor'' provision). Those suggestions and the Commission's reasoning in accepting or rejecting the recommendations are discussed in detail below.

Section 310.4(b)(1)(ii)—Denying or Interfering With Rights

Proposed § 310.4(b)(1)(ii) would prohibit a telemarketer from denying or interfering in any way with a person's right to be placed on a ''do-not-call'' list, including hanging up the telephone when a consumer initiates a request that he or she be placed on the seller's list of consumers who do not wish to receive calls made by or on behalf of that seller. The Commission received numerous comments from individual consumers who recounted experiences in which they had been hung up on when they requested to be placed on a ''do-not-call'' list. The telemarketers hung up on them without taking their requests, or used other means to hamper or impede these consumers' attempts to be placed on a ''do-not-call'' list.[231] These comments were echoed by participants in both the ''Do-Not-Call'' Forum and the July Forum.[232]

Pursuant to section 1011 of the USA PATRIOT Act, the Commission proposes to extend the reach of this provision of the Rule to encompass telemarketers soliciting charitable contributions. Nothing in the text or legislative history of that Act indicates an intention to exclude telemarketers soliciting charitable contributions from Rule provisions that, like this one, are designed to protect consumers' privacy rights. Moreover, the review of the Rule yielded evidence that, in some instances, telemarketers soliciting charitable contributions are unwilling to honor donors' do-not-call requests, even when threatened with withdrawal of future support.[233] For the reasons set forth below, the Commission, therefore, proposes to extend the coverage of this section of the Rule to include telemarketers soliciting charitable contributions or purchases of goods or services.

A seller or telemarketer has an affirmative duty under the Rule to accept a do-not-call request, and to process that request. Failure to do so by impeding, denying, or otherwise interfering with an attempt to make such a request clearly would defeat the purpose of the ''do-not-call'' provision, and would frustrate the intent of the Telemarketing Act to curtail telemarketers from undertaking unsolicited telephone calls which the reasonable consumer would consider coercive or abusive of the consumer's right to privacy. 15 U.S.C. 6102(a)(3)(A).

Therefore, the Commission proposes to specify that it is an abusive telemarketing act or practice to deny or interfere in any way with a person's right to be placed on a ''do-not-call'' list, including hanging up on the individual when he or she initiates such a request. Proposed § 310.4(b)(1)(ii) would prohibit this practice, and would also prohibit anyone from directing another person to deny or interfere with a person's right to be placed on a ''do-not-call'' list. This aspect of the provision is proposed to ensure that sellers who use third party telemarketers cannot shield themselves from liability under this provision by suggesting that the violation was a single act by a ''rogue'' telemarketer, where there is evidence that the seller caused the telemarketer to deny or defeat ''do-not-call'' requests.[234]

Section 310.4(b)(1)(iii)—''Do-Not-Call''

Section 310.4(b)(1)(ii) in the original Rule prohibits a seller or telemarketer from calling a person who has previously asked not to be called by or on behalf of the seller whose goods or services were being offered. This provision, as originally promulgated pursuant to the Telemarketing Act before the USA PATRIOT Act amendments, did not reach calls from telemarketers soliciting charitable contributions.

The ''do-not-call'' provision of the original Rule is company-specific: After a consumer requests not to receive calls from a particular company, that company may not call that consumer. Other companies, however, may lawfully call that same consumer until he or she requests each of them not to call. The effect of this provision is to permit consumers to choose those companies, if any, from which they do not wish to receive telemarketing calls. Each company must maintain its own ''do-not-call'' list of consumers who have stated that they do not wish to receive telephone calls by or on behalf of that seller. This seller-specific approach tracks the approach that the FCC adopted pursuant to its mandate under the TCPA.[235]

The Commission proposes to modify the original Rule to effectuate the USA PATRIOT Act amendments, and to provide consumers with an alternative to reduce the number of telemarketing calls they receive, *i.e.,* to place themselves on a national ''do-not-call'' registry, maintained by the Commission. The proposed modification of the Rule's treatment of the ''do-not-call'' issue would enable consumers to contact one centralized registry to effectuate their desire not to receive telemarketing calls. Telemarketers would be required to ''scrub'' their lists, removing all consumers who have placed themselves on the FTC's centralized registry. This

[229] H.R. Rep. No. 20, 103rd Congress, 1st Sess. (1993) at 8.

[230] Section 310.4(b)(1)(i) prohibits as an abusive practice ''causing any telephone to ring, or engaging any person in telephone conversation, repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number.'' NASAA stated that this provision strikes directly at one of the manipulative techniques used in high-pressure sales tactics to coerce consumers into purchasing a product and noted that it advises consumers that one of the ''warning signs of trouble'' is the ''three-call'' technique used by fraudulent sellers of securities. NASAA at 2.

[231] *See, e.g.,* Conn at 1; Gilchrist at 1; Gindin at 1; Heagy at 1; Kelly at 1; LeQuang at 1; Mack at 1; Runnels at 1.

[232] *See, e.g.,* DNC Tr. 67–68; Rule Tr. at 423–427.

[233] *See* Peters at 1.

[234] The USA PATRIOT Act amendments retain the exclusion of non-profit organizations from coverage. Therefore, this language is not intended to reach non-profit charitable organizations.

[235] P.L. 102–243, 105 Stat. 2394, codified at 47 U.S.C. 227. The FCC's regulations are set out at 47 CFR 64.1200.

proposal directly advances the Telemarketing Acts' goal to protect consumers' privacy.

In addition, the Commission proposes that consumers who have placed themselves on the FTC's national ''do-not-call'' registry could allow telemarketing calls from or on behalf of specific sellers, or on behalf of specific charitable organizations, by providing express verifiable authorization to the seller, or telemarketer making calls for or on behalf of a seller or charitable organization, that the consumer agrees to accept calls from that seller or telemarketer.[236] The proposed Rule will provide consumers with a wider range of choices than the current Rule provides: They could opt to use the FTC's centralized registry to eliminate *all* telemarketing calls from *all* sellers and telemarketers covered by the TSR; they could eliminate all telemarketing calls from all sellers and telemarketers covered by the TSR by placing themselves on the central registry, but subsequently agree to accept telemarketing calls only from or on behalf of specific sellers, or on behalf of specific charitable organizations, with respect to which they have provided express verifiable authorization; or they could opt to eliminate telemarketing calls only from specific sellers, or telemarketers on behalf of those sellers, or on behalf of charitable organizations, by using the company-specific approach in the current rule provision and the current FCC regulations.[237] The Commission proposes to set up this centralized registry for a two-year trial period, after which the Commission will review the registry's operation to obtain information about the costs and benefits of the central registry, as well as its regulatory and economic impact in order to determine whether to modify or terminate its operation.

Background. Consumer frustration over unwanted telephone solicitations is not a new phenomenon. State and federal legislators and regulators have been examining the issue since the 1960's.[238] What is new is the strength of the response to that frustration, as evidenced by, among other things, the number of States that have passed or are considering legislation to establish statewide ''do-not-call'' lists.[239] Another indication of the intensity of consumer discontent on this issue is the number of people who have placed themselves on ''do-not-call'' lists.[240] In June, 2001, the DMA reported that the number of names registered with the DMA's Telephone Preference Service (''TPS'') has grown to 4 million, up 1 million since June of 2000.[241] States report that consumers are responding in such overwhelming numbers to the State ''do-not-call'' statutes that some States'' telephone systems have crashed.[242]

[236] The proposed Rule lists two specific means of obtaining the express verifiable authorization of a consumer to receive telemarketing calls despite their inclusion on the national ''do-not-call'' list: written authorization including the consumer's signature; and oral authorization that is recorded and authenticated by the telemarketer as being made from the telephone number to which the consumer is authorizing access. The Commission expects that written authorization will be necessary in most instances because once on the national ''do-not-call'' list, a consumer could not be contacted by an outbound call to request oral authorization of future calls. Oral authorization could be obtained, however, if the consumer were to place an inbound call, and was asked by the telemarketing sales representative during that call whether he or she would consent to further telemarketing solicitations from the party called.

[237] Even if the Commission were to delete the company-specific ''do-not-call'' requirement of the original Rule, sellers and telemarketers would still be required to comply with the very similar requirements promulgated by the FCC under the TCPA.

[238] As early as 1965, the California Public Utilities Commission investigated the question of unsolicited telephone calls, rejecting the idea of a telephone directory symbol which would indicate whether the subscriber wished to receive commercial and charitable solicitations. *McDaniel v. Pacific Telephone and Telegraph Co.,* 60 PUR 3d 47 (1965). Federal legislators also began to examine the ''do-not-call'' issue a number of years ago, with proposals such as the ''Telephone Privacy Act'' (H.R. 2338), which was introduced in 1973. The FCC first examined the issue of unsolicited telephone calls in 1978, but concluded that, at that time, it was not in the public interest to subject telephone solicitation to federal regulation. *Memorandum and Order,* FCC 80–235, cc Docket No. 78–100, 77 FCC 2d 1023 (May 22, 1980). The FCC's action in this regard subsequently was superceded by Congress' enactment of the TCPA.

[239] DNC Tr. at 16, 137, 157–158. As of January, 2002, twenty (20) States had passed ''do-not-call'' statutes. Florida established the first State ''do-not-call'' list in 1987. (Fla. Stat. Ann. § 501.059.) Oregon and Alaska followed with ''do-not-call'' statutes in 1989, although, instead of a central registry, they opted to require telephone companies to place a black dot by the names of consumers who do not wish to receive telemarketing calls. (1999 Ore. Laws 564; Alaska Stat. Ann. § 45.50.475) In 1999, Oregon replaced its ''black dot'' law with a ''no-call'' central registry program. (Or. Rev. Stat. § 464.567) *See also,* article regarding Oregon law in 78 *BNA Antitrust & Trade Reg. Report* 97 (Feb. 4, 2000). After those three States adopted their statutes, there was little activity at the State level for about a decade. Then, in 1999, a new burst of legislation occurred as five more States passed ''do-not-call'' legislation—Alabama (Ala. Code § 8–19C); Arkansas (Ark. Code Ann. § 4–99–401); Georgia (Ga. Code Ann. § 46–5–17; *see also,* rules at Ga. Comp. R & Regs. r. 515–14–1); Kentucky (Ky. Rev. Stat. Ann. § 367.46955(15); and Tennessee (Tenn. Code Ann. § 65–4–401; *see also,* rules at Tenn. Comp. R & Regs. Chap. 1220–4–11). During 2000, six more States enacted ''do-not-call'' statutes—Connecticut (Conn. Gen. Stat. Ann. § 42–288a); Idaho (Idaho Code § 48–1003); Maine (Me. Rev. Stat. § 4690–A); Missouri (Mo. Rev. Stat. § 407.1098); New York (NY General Business Law § 399–z; *see also,* rules at NY Comp. R. & Regs. tit. 12 § 4602); and Wyoming (Wyo. Stat. Ann. § 40–12–301). As of January, 2002, another six States had joined the ranks—California (S.B. 771, to be codified at Cal. Bus. & Prof. Code § 17590); Colorado (H.B. 1405, to be codified at Col. Rev. Stat. § 6–1–901); Indiana (H.B. 1222, to be codified at Ind. Code Ann. § 24.4.7); Louisiana (H.B. 175, to be codified at La. Rev. Stat. 45:844.11); Texas (H.B. 472, to be codified at Tex. Bus. & Com. Code Ann. § 43.001); and Wisconsin (2001 S.B. 55, to be codified at Wis. Stat.§ 100.52). In addition, numerous States are considering laws that would create State-run ''do-not-call'' lists, including Maryland, New Jersey, South Carolina, South Dakota, Utah, Vermont, and Washington. William Raney, *Proactive Stance May Affect Pivotal Bills,* DM News (Feb. 21, 2000), p. 50; Sara Marsh, *Residents Want No-call List to Stop Telemarketers,* The Capital (Annapolis, MD) (Sept. 24, 1999), p. B1; and Mark Hamstra, *New York Senate, Assembly Pass Telemarketing Bills*, DM News (June 19, 2000) *(www.dmnews.com/articles/2000–06–19/8937.html).* The ''do-not-call'' issue has also drawn the attention of federal legislators, who have introduced several bills aimed at addressing consumers' concerns. For example, in the 106th Congress, H.R. 3180 (introduced by Rep. Salmon) would have required telemarketers to tell consumers that they have a right to be placed on either the DMA's ''do-not-call'' list or on their State's ''do-not-call'' list. This proposal also would have required all telemarketers to obtain and reconcile the DMA and State ''do-not-call'' lists with their call lists. Similar legislation was introduced in the 107th Congress by Rep. King (H.R. 232, ''Telemarketing Victim Protection Act''). In addition, on Dec. 20, 2001, Sen. Dodd introduced S.1881, the ''Telemarketing Intrusive Practices Act of 2001,'' which would require the FTC to establish a national ''do-not-call'' registry.

[240] *See, e.g.,* Letter dated Jan. 21, 2000, from James Bradford Ramsay, NARUC, to Carole Danielson, FTC, and attached News Release (''More than 40,000 Vermont households are now enrolled in the national telemarketing ''do-not-call'' registry as a result of a statewide public awareness effort . . ., a more than five-fold increase over pre-campaign levels.'') *See also*, DNC Tr. at 57–58, 87–89, 94–95 (Florida's list contains 112,568 names; Kentucky has 50,000 people enrolled; Georgia has signed up more than 180,000 people; Oregon has 74,000 names on its list). Telemarketing representatives report that about 2–5% of the consumers they call ask to be placed on a ''do-not-call'' list. DNC Tr. at 57–58, 87. Connecticut reports that almost half of its households are on a ''do-not-call'' list. DM News (June 4, 2001). More than 332,000 phone lines were listed on Missouri's ''do-not-call'' list within a short time of its passage. St. Louis Post Dispatch, p. 8 (April 9, 2001). New York reports more than 1 million households had signed up for its ''do-not-call'' list by the time it took effect on April 1, 2001. NY Times (Metropolitan Section), Section 1, p. 31 (April 1, 2001).

[241] Scott Hovanyetz, *DMA: Telemarketing Still Tops, but Problems Loom,* DM News (June 29, 2001) (wysiwyg://5/http://www.dmnews.com/cgi-bin/artprevbot.cgi?article_id=15954) Rule Tr. at 409. The TPS is a list of consumers who do not wish to receive outbound telemarketing calls. Although not advertised, it was established in 1985 and has been administered by DMA, which subsidizes the cost. DMA does not charge a fee to consumers to place their names on the TPS. DMA requires consumers to submit their request in writing and, at this time, does not permit consumers to submit their names by telephone or by electronic mail. DMA requires its members to adhere to the list; the penalty for non-compliance is expulsion from the association. Sellers and telemarketers that are not members of DMA may purchase the TPS for a fee.

[242] DNC Tr. at 88–89. A representative from the Kentucky Attorney General's Office reported: ''There has been nothing in the 200 years-plus of Kentucky's history that the Attorney General's Office has ever seen that equaled the public

Continued

Consumer commenters unanimously expressed their strong dislike of telemarketing and their desire to be free of telemarketing calls, citing the intrusiveness and inconvenience of those calls.[243] Not a single consumer comment championed telemarketing.[244] Several consumers noted that telemarketing has caused many people to change their living habits (*e.g.,* by screening calls) in order to avoid telemarketing calls.[245] Studies also have shown that consumers feel angry about the number of telemarketing calls they receive. NCL reported that in a survey conducted in 1999, 49% of consumers who responded rated telemarketing at the top of the scale of activities that bothered them.[246] A 1999 poll conducted by the State of Kentucky showed 80% of respondents found telemarketing calls to be annoying and intrusive, and only 10% found them to be helpful and informative.[247] Similarly, a 1999 survey by the Vermont Department of Public Service concerning telemarketing found only 2.7% of respondents had no objection to receiving telemarketing calls, whereas almost 88% stated that they would like all telemarketing calls to stop.[248]

Efficacy of the ''do-not-call'' provision. Industry generally supported the Rule's current company-specific approach, stating that it provides consumer choice and satisfies the consumer protection mandate of the Telemarketing Act while not imposing an undue burden on industry.[249] Several consumer commenters also stated that the current scheme works most of the time, although it does not work in every case.[250]

The vast majority of individual commenters, however, joined by consumer advocates and State law enforcement, claimed that the TSR's company-specific ''do-not-call'' provision is inadequate to prevent unwanted telemarketing calls.[251] They cited several problems with the current ''do-not-call'' scheme as set out in the FTC and FCC regulations: the company-specific approach is extremely burdensome to consumers, who must repeat their ''do-not-call'' request with every telemarketer that calls;[252] consumers'' repeated requests to be placed on a ''do-not-call'' list are ignored;[253] consumers have no way to verify that their names have been taken off a company's list;[254] consumers find that using the TCPA's private right of action [255] is a very complex and time-consuming process, which places an evidentiary burden on the consumer who must keep detailed lists of who called and when; [256] and finally, even if the consumer wins a lawsuit against a company, it is difficult for the consumer to enforce the judgment.[257]

Some of the criticisms of the efficacy of the current ''do-not-call'' scheme will be addressed by other proposed amendments to the Rule. For example, many commenters complained that they cannot exercise their private right of action because telemarketers do not identify themselves and hang up when consumers try to assert their ''do-not-call'' rights.[258] This problem is addressed through the proposed new prohibition in § 310.4(b)(1)(ii) against denying or interfering in any way with consumers' right to be placed on a ''do-not-call'' list.[259]

Proposed ''do-not-call'' provision. The Commission is mindful of the criticism that the company-specific approach in the current Rule's ''do-not-call'' provision is cumbersome and burdensome for those consumers who do not wish to receive any telemarketing calls at all. The Commission believes that the current approach is inadequate to fulfill the mandate in the Telemarketing Act that the Commission should prohibit telemarketers from undertaking ''a pattern of unsolicited telephone calls which the reasonable consumer would consider coercive or abusive of such consumer's right to privacy.'' [260] As such, the proposed modification of the Rule promotes the

response to the no-call list . . . It literally—and I mean literally—fried our telephone systems. It knocked our telephone line out . . . [Tennessee's] telephone lines have been broken down because of the overwhelming response, and their list is not even ready . . . to be implemented . . . [Georgia] had exactly the same response, that there was truly a tidal wave of people who were seeking to be on the list. When told this . . . isn't going to stop everybody from calling, people will almost inevitably say, ''If it keeps one person from calling me, I'm better off.''

[243] *See, e.g.,* Bennett at 1; Card at 1; Conway at 1; Dawson at 1; Gilchrist at 1; Gindin at 1; Heagy at 1; Hickman at 1; Johnson at 3; Kelly at 1; Lee at 1; Mack at 1; Manz at 1; McCurdy at 1; Nova53 at 1; Reynolds at 1; Runnels at 1; Schmied at 1; Ver Steegt at 1.

[244] Only two consumer comments even approached acceptance of the notion that consumers might value telemarketing calls or wish to preserve telemarketer access to their home telephone—provided telemarketers changed their practices. Johnson at 1 (Could be effective and accepted if telemarketers were not verbally abusive, did not argue when listener said not interested, and did not lie.) *See also,* Runnels at 1 (''Up until past year or two, we were always willing to answer calls from telemarketers, and asked them to put on DNC list. . . . [We] typically received polite response. . . . [But] in the past 2 years, we have received calls from telemarketers unlike anything previous.'')

[245] *See, e.g.,* Bennett at 1; Runnels at 1 (''We miss the days before telemarketers when we could invite calls from the public; we feel that the rise of telemarketing has thus had a negative impact on our relations with the community at large.'').

[246] Letter dated Jan. 20, 2000, from Susan Grant, NCL, to Carole Danielson, FTC. (''[C]onsumers were asked to rate seven everyday experiences on a scale from 1 to 10 in terms of what bothered them the most. A designation of 1 meant ''not bothered at all''; 10 indicated ''completely fed up.'' Telemarketing came in third, with 49% of the respondents giving it a top score of 10.'') The tabulation attached to NCL's letter also shows that only 14% of the respondents gave telemarketing a rating of less than 5. *Id.* The other everyday experiences rated and the percentage rated as a 10 by respondents were: Junk mail (59%); dialing a company and being answered with ''press 1 for . . .'' (54%); fine print and codes making bills difficult to understand (41%); credit card fees (40%); bank fees and ATM charges (34%); and intrusiveness of advertising and commercialism (30%). *Id.*

[247] 1999 Kentucky Spring Poll, submitted to FTC by Kentucky Office of Attorney General, Feb. 4, 2000.

[248] Letter dated Jan. 21, 2000, from James Bradford Ramsay, NARUC, to Carole Danielson, FTC, attaching Vermont survey.

[249] ARDA at 2; ATA at 8–10; Bell Atlantic at 4; DMA at 2; ERA at 6; MPA at 16; NAA at 2; NASAA at 4; PLP at 1; *see also,* DNC Tr. at 132–180.

[250] *See, e.g.,* Bennett at 1; Brass at 1; Hickman at 1; Runnels at 1.

[251] *See, e.g.,* Anderson at 1; Bennett at 1; Card at 1; Conway at 1; Garbin at 1; A. Gardner at 1; Gilchrist at 1; Gindin at 1; Harper at 1; Heagy at 1; Johnson at 1; McCurdy at 1; Menefee at 1; Mey generally; Mitchelp at 1; Nova53 at 1; Peters at 1; Rothman at 1; Vanderburg at 1; Ver Steegt at 1; Worsham at 1; NAAG at 17–19; NCL at 13–14. *See also,* DNC Tr. at 132–180.

[252] *See* Garbin at 1; NAAG at 17; Ver Steeg at 1.

[253] *See* Harper at 1; Heagy at 1; Holloway at 1; Johnson at 1; Menefee at 1; Mey generally; Nova53 at 1; Nurik at 1; Peters at 1; Rothman at 1; Runnels at 1; Schiber at 1; Schmied at 1; Vanderburg at 1.

[254] *See* McCurdy at 1; Schiber at 1.

[255] The TCPA permits a person who receives more than one telephone call in violation of the FCC's ''do-not-call'' rules to bring an action in an appropriate State court to enjoin the practice, to receive money damages, or both. The consumer may recover actual monetary loss from the violation or receive $500 in damages for each violation, whichever is greater. If the court finds that a company willfully or knowingly violated the FCC's ''do-not-call'' rules, it can award treble damages. 47 U.S.C. 227(b)(3).

[256] *See* Kelly at 1; NAAG at 17–19; NACAA at 2; NCL at 13–14.

[257] *See* Kelly at 1.

[258] *See, e.g.,* Gindin at 1; Haines at 1; Heagy at 1; Hecht at 1; Holloway at 1; Kelly at 1; LeQuang at 1; Mack at 1; Manz at 1; Merritt at 1; Runnels at 1; Sanford at 1; Schiber at 1; Thai at 1; *see also* Rule Tr. at 422–427. Some hang-ups occur when the consumer answers the telephone only to hear a ''click'' as the phone disconnects. These hang-ups are due to the use of predictive dialers, a problem that is discussed in greater detail in connection with the oral disclosures required by § 310.4(d).

[259] Other consumers complained that many companies require the consumer to use ''magic words'' in asserting their ''do-not-call'' rights. *See, e.g.,* Gilchrist at 1 (company said it did not keep a ''do-not-call'' list, but only a ''no contact'' list and would not accept consumer's request unless consumer asked to be placed on ''no contact'' list); Weltha at 1. The Commission was very clear in the Statement of Basis of Purpose that any form of ''do-not-call'' request is sufficient, and no ''magic words'' are necessary to provide notice: ''Any form of request that the consumer does not wish to receive calls from a seller will suffice. An oral statement as simple as ''Do not call again'' is effective notice.'' 60 FR at 43855.

[260] 15 U.S.C. 6102(a)(3)(A).

Act's privacy protections. These consumers would benefit from a national registry they could contact to request to receive no telemarketing calls from or on behalf of any seller, or on behalf of any charitable organization, whatsoever. In fact, many commenters supported the concept of a national ''do-not-call'' database.[261] Consumers and State law enforcement representatives stated that a national ''do-not-call'' list would provide a ''one-stop'' method of allowing consumers to reach many telemarketers quickly and would enhance consumers' ability to assert their ''do-not-call'' rights.[262]

Some industry representatives also supported a national ''do-not-call'' list, stating that it would be preferable to a patchwork of 50 different State ''do-not-call'' laws.[263] Industry representatives generally expressed concern about the proliferation of State telemarketing laws, including ''do-not-call'' statutes, indicating that complying with myriad State laws imposes significant economic costs to business.[264] The Commission recognizes that this is very important, and requests comment on the interplay between the national registry and State ''do-not-call'' schemes and poses a number of questions in Section IX of this Notice specifically designed to elicit information on this issue.

A national registry would eliminate many of the burdens to consumers of the company-specific approach. They would only have to register once in order to make their preferences known to all telemarketers under the FTC's jurisdiction, instead of having to make the same request to many companies. Moreover, this proposed revision addresses industry's suggestion that consumers may not desire an all-or-nothing approach to telemarketing calls. Consumers who wish to receive telemarketing calls only from specific companies could place themselves on the national registry, but provide express verifiable written authorization to specific sellers in which they agree to accept telemarketing calls from those sellers. Alternatively, consumers who do not object to telemarketing calls generally but do not want such calls from or on behalf of specific sellers or on behalf of specific charitable organizations would still be able to choose to use the company-specific approach set up by the FCC, also embodied in § 310.4(b)(1)(iii)(A) of the proposed Rule.

Industry representatives expressed skepticism about the need to strengthen the ''do-not-call'' provisions of the Rule. In this regard, they advanced two arguments. First, they asserted that sellers and telemarketers covered by the Rule generally comply with the ''do-not-call'' provisions, and that non-covered entities—*e.g.,* banks, non-profit organizations, and companies engaged in common carrier activity—are the primary source of consumer complaints about ''do-not-call'' requests being ignored.[265] The extension of TSR coverage, pursuant to the USA PATRIOT Act amendments, to encompass telemarketing calls to solicit charitable contributions will increase the range of covered calls and presumably decrease complaints about do-not-call compliance. Industry's second argument is that although many consumers may broadly express the view that they would prefer not to receive any telemarketing calls, when it comes down to particulars, their true wishes may be somewhat different.[266] The same consumers who say they would like to stop receiving telemarketing calls may actually welcome certain types of telemarketing calls—for example, special sale price offers from companies with which they have previously transacted business. The proposed Rule addresses this concern because consumers could selectively agree to receive calls from specific companies, or from telemarketers on behalf of specific charitable organizations, or could still choose the company-specific approach set up by the FCC's regulations.

Taking all the record evidence into account, the Commission proposes to amend the Rule to provide consumers with the option to contact a national registry maintained by the Commission to indicate that they do not wish to receive any telemarketing calls, and, in addition, to provide express verifiable written authorization to a seller or charitable organization in which they agree to accept telemarketing calls from or on behalf of that seller or on behalf of that charitable organization.

Relationship to FCC regulations. The Commission's proposed amendment to its ''do-not-call'' provision is consistent with the FCC's regulations. Companies can comply with both regulations. The Commission intends that its proposed ''do-not-call'' provision not be construed to permit any conduct that is precluded or limited by FCC regulations. For example, the FTC does not intend that anything in the TSR or this Notice provide any basis to argue that the FCC is precluded from requiring that a ''do-not-call'' list be maintained for a specific period of time, or for a period of time that may be greater than may be required under the FTC's Rule. Similarly, nothing in the TSR or this Notice provides any support for an assertion that the FCC cannot require a company's written ''do-not-call'' policy be provided to consumers upon request.

In this respect, several industry commenters pointed out that the FCC has issued an interpretation stating that the TCPA does not require companies to accept ''do-not-call'' lists from third-party organizations.[267] These commenters asked the Commission to clarify whether the TSR requires them to accept ''do-not-call'' lists from third parties. The Commission believes that its proposed national registry will obviate industry members' uncertainty about whether to accept ''do-not-call'' lists from third parties. The Commission believes that the proposed ''do-not-call'' provision is sufficiently simple and accessible for consumers that they are unlikely to turn to third-party alternatives.

Related to this issue is the question of whether the national registry might be presented with consumer ''do-not-call'' requests compiled by third parties. The Commission recognizes that third-party lists, if presented, may not provide either the level of accuracy or consumer choice of call preferences available through the national registry. Moreover, to ensure that only the consumers who actually wish to be on the ''do-not-call'' registry are placed there, it is anticipated that enrollment on the national registry will be required to be made by the individual consumer from the consumer's home telephone. The Commission, therefore, requests comment on what the costs and/or benefits might be to the incorporation or refusal of third-party consumer lists by certified registries. In addition, the

[261] *See, e.g.,* ARDA at 4; Bennett at 1; Card at 1; Collison at 1; Conway at 1; Dawson at 1; A. Gardner at 1; Gibb at 1; Gilchrist at 1; Gindin at 1; McCurdy at 1; Mey at 2; NAAG at 18; NACAA at 2; NCL at 14; NFN at 2–3; Schmied at 1.

[262] *See, e.g.,* Bennett at 1; Card at 1; Collison at 1; Conway at 1; Dawson at 1; A. Gardner at 1; Gibb at 1; Gilchrist at 1; Gindin at 1; McCurdy at 1; NAAG at 17–19; NACAA at 2; NCL at 14; Schmied at 1.

[263] *See, e.g.,* ARDA at 4; NFN at 2–3.

[264] *See, e.g.,* ARDA at 2–4; ATA at 6–8; Bell Atlantic at 4–7; DMA at 6–7; Gannett at 1; KTW at 3–4; MPA at 11, 16; NFN at 2; Reese at 3, 11–12; Verizon at 2–3.

[265] DMA at 4–5; ERA at 4; DNC Tr. 96–99, 132–133. The Commission notes that, although certain entities such as non-profit organizations, companies engaged in common carrier activity, and banks may be exempt from the FTC Act, any third-party telemarketer hired by an exempt entity to conduct its telemarketing activities *would* be covered by the TSR. *See* 60 FR at 43843.

[266] *See, e.g.,* DNC Tr. 108, 164.

[267] *See* DMA at 7–8; NAA at 4; and Letter dated Aug. 19, 1998, from Geraldine A. Matise, FCC to James T. Bruce, Wiley, Rein & Fielding.

Commission requests comment on whether verification should occur and, if so, what form the verification should take.

Finally, several industry representatives asked the Commission to set a single national standard for how long a company may take to place a consumer on its ''do-not-call'' list.[268] With regard to company-specific lists, the Commission declines to second-guess the FCC's ruling. There is insufficient evidence in the record to justify such action that would introduce the specter of inconsistency between the two sets of regulations. With regard to the national registry, under proposed § 310.4(b)(2)(iii), a seller or telemarketer will not be held liable for violating the ''do-not-call'' requirements of §§ 310.4(b)(1)(ii) and (iii) if, among other things, it obtains and reconciles on no less than a monthly basis the names and/or telephone numbers of those persons who have been placed on the national registry.

Section 310.4(b)(3)—Commission Review

Proposed § 310.4(b)(3) sets out the Commission's intention to review the operation of its national registry after two years. During that review, the Commission will obtain information about the costs and benefits of the central registry, as well as its regulatory and economic impact. Based on the information received, the Commission will determine whether to modify aspects of the registry's operation or whether to terminate the registry's operation.

Section 310.4(b)(2)—''Do-Not-Call Safe Harbor''

Section 310.4(b)(2) provides sellers and telemarketers with a limited safe harbor from liability for violating the ''do-not-call'' provision found in proposed § 310.4(b)(1)(iii). During the original rulemaking, the Commission determined that sellers and telemarketers should not be held liable for calling a person who previously asked not to be called if they had made a good faith effort to comply with the Rule's ''do-not-call'' provision and the call was the result of error. The Rule established four requirements that a seller or telemarketer must meet in order to avail itself of the safe harbor: (1) It must establish and implement written procedures to comply with the ''do-not-call'' provision; (2) it must train its personnel in those procedures; (3) it must maintain and record lists of persons who may not be contacted; and (4) any subsequent call must be the result of error.

These criteria tracked the FCC's regulations, which set forth the minimum standards that companies must follow to comply with the TCPA's ''do-not-call'' provision.[269] Proposed § 310.4(b)(2) contains three additional requirements that must be met before sellers or telemarketers may avail themselves of the ''safe harbor'': (1) Sellers and telemarketers must obtain and reconcile on not less than a monthly basis the names and/or telephone numbers of persons who have been placed on the Commission's national registry; (2) for those consumers whose telephone numbers are in the national registry but who have agreed to accept telemarketing calls from or on behalf of the seller, or on behalf of a specific charitable organization, the seller and telemarketer must maintain the consumers' express verifiable authorizations to call; and (3) sellers and telemarketers must monitor compliance and take disciplinary action for non-compliance. Although these criteria are not among the minimum standards contained in the FCC's regulations for the TCPA company-specific ''do-not-call'' regime, the additional criteria in the proposed Rule do not conflict with the FCC regulations. As discussed above, the FCC regulations are silent as to any requirement to reconcile names or numbers from a national registry because the FCC regulations relate only to company-specific lists.[270] Therefore, any FTC requirement about obtaining and reconciling telephone numbers placed in a national registry would not conflict with the FCC's regulations. Similarly, the FCC regulations are silent as to the requirement to monitor compliance and take action to correct any non-compliance, or to maintain evidence of express verifiable written authorization to accept telemarketing calls. Thus, the proposed Rule would not conflict with the FCC's regulations. As discussed more fully below, the Commission believes that it is necessary for the proposed Rule to diverge from the FCC regulations by imposing a monitoring requirement in the ''safe harbor'' provision in order to clarify the applicability of the safe harbor.

Commenters generally supported the safe harbor, stating that strict liability is inappropriate where a company has made a good faith effort to comply with the Rule's requirements and has implemented reasonable procedures to do so.[271] NASAA noted that it was good public policy to reward firms that have been proactive in attempting to comply with the Rule, and that such a safe harbor provides guidelines for industry ''best practices.''[272] The same rationale applies with equal force to allowing telemarketers that solicit charitable contributions to avail themselves of the safe harbor.

The Commission continues to believe that the Rule should contain a safe harbor provision for violations of its ''do-not-call'' provision. Sellers or telemarketers who have made a good faith effort to provide consumers or donors with an opportunity to exercise their ''do-not-call'' rights should not be liable for violations that result from error.[273] The Commission believes the same rationale applies to potential violations of proposed § 310.4(b)(1)(ii), and therefore proposes to modify the introductory sentence of § 310.4(b)(2) to provide a safe harbor for violations of *both* proposed §§ 310.4(b)(1)(ii) and (iii). Section 310.4(b)(1)(ii) prohibits a seller or telemarketer from denying or interfering with a person's right to be placed on a ''do-not-call'' list, whereas § 310.4(b)(1)(iii) prohibits calling a person who has previously requested to be placed on such a list. The original Rule provided safe harbor protection only for violations of the ''do-not-call'' provision. The proposed Rule would expand that safe harbor protection to violations of the provision that prohibits denying or interfering with the consumer's or donor's right to be placed on a ''do-not-call'' list.

However, while expanding the scope of the safe harbor provision, the Commission also proposes to tighten it by requiring sellers and telemarketers to monitor compliance and take disciplinary action for non-compliance in order to be eligible for the safe harbor. Proposed § 310.4(b)(2)(vi)

[268] *See* DMA at 5–6; KTW at 5; NFN at 1–2.

[269] 47 CFR 64.1200(e)(2).

[270] The FCC regulations require companies to reconcile ''do-not-call'' requests for company-specific lists on a continuing or ongoing basis. Specifically, 47 CFR 64.1200(e)(2)(iii) requires the seller or telemarketer to record the consumer's ''do-not-call'' request and place the consumer's name and telephone number on the company's ''do-not-call'' list at the time the request is made. The TSR is silent as to how frequently a company must reconcile ''do-not-call'' requests for company-specific lists.

[271] *See* ARDA at 4; ERA at 6; NASAA at 3.

[272] NASAA at 3.

[273] The Commission recognizes that the implementation of proposed national ''do-not-call'' list will present logistical challenges such as a viable means of purging from the list telephone numbers which have been, subsequent to their inclusion on the national ''do-not-call'' list, reassigned to new customers. The Commission has included, in Section IX of this Notice, questions about how best to accomplish this, as well as whether to include in the Rule safe harbor provisions addressing calls made to such numbers.

requires the seller or telemarketer to monitor and enforce compliance with the procedures established in § 310.4(b)(2)(i).

Numerous commenters described the problems they had encountered in attempting to assert their ''do-not-call'' rights and with companies that continued to call after the consumer asked not to be called.[274] This anecdotal evidence indicates that some entities may not be enforcing employee compliance with their ''do-not-call'' policies. In fact, one consumer reported that telemarketers for two different companies told her that it was not necessary that a company's ''do-not-call'' policy be effective, only that such a policy exist.[275]

To clarify this apparent misconception about the Rule's requirements, proposed § 310.4(b)(2)(iii) would require that, in order to avail themselves of the safe harbor provision, sellers and telemarketers must be able to demonstrate that, in the ordinary course of business, they monitor and enforce compliance with the written procedures required by § 310.4(b)(2)(i). For example, it is not enough that a seller or telemarketer has written procedures in place; the company must be able to show that those procedures have been and *are implemented* in the regular course of business. Thus, a seller or telemarketer cannot take advantage of the safe harbor exemption in § 310.4(b)(2) unless it can demonstrate that it actually trains employees in implementing its ''do-not-call'' policy, and enforces that policy.

Section 310.4(c)—Calling Time Restrictions

Section 310.4(c) prohibits telemarketing calls before 8:00 a.m. and after 9:00 p.m. local time at the called person's location. Several commenters suggested that the Commission change the calling time restrictions in § 310.4(c), stating that unwanted telemarketing calls are particularly abusive when received during the hours around dinner time.[276] One commenter suggested that only the consumer should be allowed to determine what are convenient calling times, while others suggested other restrictions, such as permitting calls only between 9 a.m. and 5 p.m.[277] The Commission believes the current calling time restrictions provide reasonable protections for the consumer's privacy while not unduly burdening industry. Moreover, the current provision is consistent with the FCC's regulations under the TCPA.[278] As the Commission discussed in the Rule's Statement of Basis and Purpose, by altering the permitted calling hours under the Rule, the Commission would introduce a conflict in the federal regulations governing telemarketers.[279] The record on this issue has not provided any new evidence that would warrant a change that would produce such a result. However, the Commission has posed questions in Section IX of this Notice asking whether it might be workable to allow consumers to select to receive telemarketing calls only on certain days or during certain hours. The Commission poses the questions about the costs and benefits of selective day and time opt out to provide similar flexibility for consumers and telemarketers in developing a schedule for telemarketing that would be mutually agreeable.

Pursuant to Section 1011 of the USA PATRIOT Act, the Commission proposes to expand the coverage of this prohibition to encompass calls made by telemarketers, whether on behalf of sellers or charitable organizations, that are made outside the permissible hours set forth in this provision.

Section 310.4(d)—Required Oral Disclosures To Induce Purchases of Goods or Services

Section 310.4(d) sets out certain oral disclosures that telemarketers must promptly make in any outbound telephone call made to induce the purchase of goods or services. Commenters generally supported this provision, but suggested several modifications or clarifications. Those suggestions and the Commission's reasoning in accepting or rejecting them are discussed in detail below. In summary, the Commission has determined to retain the wording of § 310.4(d) with two relatively minor modifications. First, the Commission proposes to insert, after the phrase ''in an outbound telephone call,'' the phrase '' to induce the purchase of goods or services.'' This will clarify that § 310.4(d) applies only to telemarketing calls made to induce sales of goods or services (in contrast to proposed new § 310.4(e), which contains an analogous phrase clarifying that § 310.4(e) will apply to calls made ''to induce a charitable contribution''). Second, the Commission proposes to modify § 310.4(d)(4) to require that the telemarketer disclose that a purchase will not enhance a customer's chances of winning a prize or sweepstakes.

Section 310.4(d)(4)—Sweepstakes Disclosure

The Telemarketing Act directed the Commission to include in the TSR provisions addressing specific ''abusive'' telemarketing practices, including the failure to ''promptly and clearly disclose to the person receiving the call that the purpose of the call is to sell goods or services and make such other disclosures as the Commission deems appropriate, including the nature and price of the goods and services.'' [280] Section 310.4(d)(4) requires that a telemarketer promptly disclose that no purchase or payment is necessary to be eligible to win a prize or participate in a prize promotion if a prize promotion is offered. In the original rulemaking, the Commission determined, based on its extensive law enforcement experience, that fraudulent telemarketers had frequently used sweepstakes promotions to disguise the fact that the purpose of the call is to sell goods or services.[281]

NCL recommended that this provision be modified to require the telemarketer to disclose that making a purchase will not improve a customer's chances of winning.[282] NCL noted that this disclosure would be consistent with the requirements for direct mail solicitations under the DMPEA.[283]

Since the original rulemaking, law enforcement experience and the legislative history of the DMPEA strongly suggest that many consumers, particularly the elderly, get the impression, based on the overall presentation of a prize promotion, that purchasing something enhances their chances of winning.[284] Creating such an impression undermines one of the protections the Telemarketing Act intended to provide: keeping the purpose of a telemarketing call—to sell goods or services—clearly in the

[274] *See, e.g.,* Bennett at 1; A. Gardner at 1; Gilchrist at 1; Gindin at 1; Harper at 1; Heagy at 1; Johnson at 3; McCurdy at 1; Menefee at 1; Mey, generally; Nova53 at 1; Peters at 1; Runnels at 1.

[275] Mey at 2.

[276] *See, e.g.,* Conway at 1; Garbin at 1; Hickman at 1; McCurdy at 1; Nurik at 1. NASAA indicated that it supports this provision, which has also been adopted by the National Association of Securities Dealers (''NASD'') in their Telemarketing Conduct Rule 2211(a), because it prevents and limits abusive and high-pressure sales tactics. NASAA at 2.

[277] *See* Conway at 1; Hickman at 1; Garbin at 1; McCurdy at 1.

[278] 47 CFR 64.1200(e)(1): ''No person or entity shall initiate any telephone solicitation to a residential telephone subscriber before the hour of 8:00 a.m. or after 9:00 p.m. (local time at the called party's location).''

[279] 60 FR at 43855.

[280] 15 U.S.C. 6102(a)(3)(C).

[281] 60 FR 43857.

[282] *See* NCL at 9.

[283] *Id.* 39 U.S.C. 3001(k)(3)(A)(II).

[284] *See* discussion above regarding proposed changes to § 310.3(a)(1)(iv).

forefront from the start of the call.[285] Therefore, the Commission proposes that § 310.4(d)(4) be amended to require that a telemarketer in an outbound call disclose promptly and in a clear and conspicuous manner to the customer receiving the call that making a purchase will not improve the customer's chances of winning. This disclosure would clarify for consumers that any sweepstakes or prize promotion is separate from the sale of the product and thus is consistent with the Act's mandate to prohibit telemarketers from failing to disclose the purpose of the call, as well as the nature and price of the goods and services to be sold.

Section 310.4(e)—Required Oral Disclosures To Induce Charitable Contributions

Section 1011(b)(2)(D) of the USA PATRIOT Act mandates that the Commission include in the TSR provisions that address abusive practices:

> a requirement that any person engaged in telemarketing for the solicitation of charitable contributions, donations, or gifts of money or any other thing of value, shall promptly and clearly disclose to the person receiving the call that the purpose of the call is to solicit charitable contributions, donations, or gifts, and make such other disclosures as the Commission considers appropriate, including the name and mailing address of the charitable organization on behalf of which the solicitation is made.

Accordingly, the Commission proposes to add new section 310.4(e), specifying that ''it is an abusive telemarketing act or practice and a violation of this Rule for a telemarketer, in an outbound telephone call to induce a charitable contribution, to fail to disclose truthfully, promptly, and in a clear and conspicuous manner to the person receiving the call * * * (1) the identity of the charitable organization on behalf of which the request is being made; and (2) that the purpose of the call is to solicit a charitable contribution.''

A TSR provision requiring disclosure of the purpose of the call is mandated by section 1011(b)(2)(D). Proposed TSR § 310.4(e)(2) therefore, requires that disclosure. In addition, pursuant to the discretionary authority under § 1011(b)(2)(D) to require other prompt and clear disclosures (including the charitable organization's name), proposed TSR § 310.4(3)(2) would also require disclosure of the identity of the charitable organization. Prompt disclosure of this information is the minimum necessary for a prospective donor to know whether he or she wishes to allow the solicitation to continue—and ultimately, whether he or she wishes to donate.[286]

As noted, the statute specifically mentions a charitable organization's mailing address as another disclosure within the Commission's discretion to require. The statute, however, does not require the Commission to adopt such a requirement, and accordingly, the Commission does not propose to do so. Such a requirement may impose costs on charities and telemarketers but produce few if any benefits—although possibly considerable annoyance—on the part of individuals interested only in abbreviating the call. In Section IX of this notice the Commission therefore has included questions on this issue specifically designed to elicit information as to whether such a disclosure would be appropriate or necessary. For example, the Commission asks whether the purposes of the USA PATRIOT Act could best be served by requiring prompt disclosure of this information only when the donor is interested enough to ask for it. In such a case, non-disclosure could possibly result in consumer harm, since absent a TSR requirement to disclose this information, consumers would likely have little alternative means to obtain it as a starting point in verifying the *bona fides* of a purported charitable organization requesting a donation. The Commission specifically seeks additional comment and information on this issue.

Other Recommendations by Commenters Regarding Allegedly Abusive Practices

Commenters raised additional issues related to abusive practices, urging the Commission to add to the list of practices prohibited by the TSR as abusive. These commenters were concerned about several practices: The use of predictive dialers; prison-based telemarketing; telemarketers' use of courier services to pick up payments from consumers; telemarketers' targeting of vulnerable groups; and the sale of victim lists. In addition, several commenters asked the Commission to define the word ''promptly'' in § 310.4(d). A number of commenters also asked the Commission to clarify when the disclosures required by that provision should be given in the case of multiple purpose calls and recommended that § 310.4(d) be amended to address multiple purpose calls by requiring that telemarketers promptly disclose the cost of the product or service before mentioning any sweepstakes or other purpose of the call. Finally, one commenter recommended that the Commission amend § 310.4(d) to require that telemarketers disclose the address and telephone number of the telemarketer. Each of these recommendations, and the reasoning behind the Commission's response to them, are discussed in detail below.

Predictive Dialers. A predictive dialer is an automatic dialing software program that, through a complex set of algorithms, automatically dials consumers' telephone numbers in a predetermined manner and at a predetermined time such that the consumer will answer the phone at the same time that a telemarketer is free to take the call.[287] These software programs are set up to predict when a telemarketer will be free to take the next call, in order to minimize the amount of downtime for the telemarketer.[288] In some instances, however, when a consumer answers the phone, there is no telemarketer free to take the call. In those instances, the predictive dialer disconnects the call and the consumer either hears nothing (''dead air'') or hears a click as the dialer hangs up.[289]

A major theme throughout the comments has been consumer frustration with the ''hang-ups'' and dead air associated with the industry's use of predictive dialers.[290] In fact, a representative from one Washington, DC area consumer protection agency reported that the problem of dead air calls due to the use of predictive dialers is the single largest complaint his organization receives regarding telemarketing.[291]

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[285] 15 U.S.C. 6102(a)(3)(C).

[286] The Commission is mindful that under *Riley* v. *Nat'l Fed. of the Blind,* 487 U.S. 781 (1988), the range of affirmative disclosures that can be required, consistent with strong First Amendment protection of charitable fundraising, is strictly constrained. However, the Commission believes such a narrowly tailored disclosure is permitted by the First Amendment. *See id.* at 799 n.11.

[287] *See* DNC Tr. at 34, 46.

[288] *See* DNC Tr. at 34.

[289] Another cause of dead air is slow connect times that create a delay between the consumer saying ''hello'' and the agent getting a tone in his or her ear. The agent does not hear the initial ''hello.'' The consumer who hears only dead air after saying ''hello'' generally hangs up the phone after a few seconds. Clifford G. Hurst, *Will We Kill the Goose?* 11 Teleprofessional, Nov. 1998, at 70.

[290] *See, e.g.,* Bishop at 1; Braddick at 1; Croushore at 1; Dawson at 1; Haines at 1; Hecht at 1; Mack at 1; Manz at 1; McCurdy at 1; Merritt at 1; Nova53 at 1; Sanford at 1; Strang at 1. *See also* DNC Tr. at 21, 39–40; Rule Tr. at 10, 52–55, 61–62.

[291] *See* Rule Tr. at 55–56 (''During the last two or three years, we've conducted numerous seminars * * * for senior citizens, and the single biggest complaint in all of those seminars without fail has been [what is referred to as] dead ringers, senior citizens who go and answer the phone, there's nobody there. They either think they're being stalked or they * * * may think [a relative who is

Consumer commenters expressed extreme frustration and anger at having to drop whatever they may be doing and race to the telephone only to be met with dead air.[292] This inconvenience can be particularly troublesome for the elderly or infirm who must struggle just to get to the telephone, only to find no one on the line when they answer. These consumers often feel frightened, threatened, or harassed over these experiences, since there is no way for the consumer to tell whether such calls are placed by a telemarketer or by some sinister caller, such as a stalker, or a burglar to determine if someone is home.[293] In addition, when the predictive dialer disconnects the call, the consumer often has no effective way to determine from whom the call originated and thus to whom he or she should direct a ''do-not-call'' request; or, if the consumer has placed his or her name or number on a ''do-not-call'' list or registry, the consumer often has no effective way to determine which company is ignoring the consumer's ''do-not-call'' request.[294] Thus, predictive dialers can thwart consumers'' attempts to protect their rights to privacy by placing themselves on a ''do-not-call'' list.

Predictive dialers are not a new phenomenon. The telemarketing industry has used these devices for many years.[295] However, their use has increased dramatically in the past decade.[296] Predictive dialers have become prevalent in the telemarketing industry because a dialer reputedly can significantly increase a telemarketer's productivity as measured by the amount of downtime between calls.[297] Each telemarketing company can set its predictive dialer software for a predetermined abandonment rate, *i.e.,* the percentage of hang-up calls the system will allow—the higher the abandonment rate, the higher the number of hang-up calls. High abandonment rates can ensure that each telemarketing sales representative will spend the maximum possible number of minutes per hour talking with customers. However, the more rapidly the dialer places calls, the more probable it is that the telemarketers will still be on previously placed calls and not be available when the consumer picks up the phone. When no telemarketer is available, the predictive dialer disconnects the call.[298]

The industry acknowledges the validity of consumer objections to the negative effects of predictive dialers and has attempted to be responsive to the increasing consumer frustration over the ''hang-ups'' and dead air calls. In January 1999, the DMA established guidelines for its members which recommend an abandonment rate as close to zero as possible, with a maximum acceptable abandonment rate of no greater than 5 percent of answered calls per day in any campaign.[299] The DMA guidelines also limit the number of times a marketer can abandon a consumer's telephone number in one month. According to the DMA guidelines, if a marketer has abandoned a call to a particular number twice in one month, the marketer should not call that person again unless the call is placed manually by a sales representative.[300] However, these guidelines are voluntary and some critics of the telemarketing industry claim that some companies have abandonment rates that are substantially higher than the recommended 5 percent.[301]

As a result of increased consumer outrage over the number of abandoned calls, the DMA is considering reducing the maximum recommended abandonment rate from 5 percent to some lower number.[302] Theoretically, the dialer could be set to a zero abandonment rate, where a telemarketer would be available for each call answered by a consumer. Industry members claim, however, that a zero abandonment rate would lose any efficiencies that are gained by the use of a predictive dialer.[303] They argue that at a zero abandonment rate, they might as well have telemarketers manually dialing telephone numbers.[304]

The Commission in no way condones a practice that enables industry to shift some of its operational costs to

ill] tried to call them, and they actually place calls to emergency personnel saying, ''Can you go check on my sister or my aunt or uncle'' because of the fact that there's nobody there on the line.'').

[292] *See, e.g.,* Bishop at 1; Braddick at 1; Croushore at 1; Dawson at 1; Haines at 1; Hecht at 1; Mack at 1; Manz at 1; McCurdy at 1; Merritt at 1; Nova53 at 1; Sanford at 1; Strang at 1; DNC Tr. at 21, 39–40; Rule Tr. at 10, 52–55. *See also,* Martha McKay, ''*Nuisance Calls Hit New High: Now Telemarketers Hang Up,*'' Bergen (Co. NJ) Record (Jan. 30, 2000), at A1.

[293] *See, e.g.,* Bishop at 1; Haines at 1; Hecht at 1; Manz at 1; McCurdy at 1; Rule Tr. at 52–56, 61–62. Private Citizen related an incident involving one consumer who had 400 abandoned calls in a one-year period and, thinking it was a stalker, put an alarm system on her house and quit her job to watch her children. The abandoned calls turned out to have come from a telemarketer using a predictive dialer. Rule Tr. at 52–53. *See also,* Mark Hamstra, *DMA to Explore Predictive Dialer Abandon Rates,* DM News (Feb. 21, 2000), at 1 (DMA reports some consumers saying they thought they were being stalked or harassed.).

[294] As discussed earlier with regard to blocking of caller identification information, many telemarketers use lines that cannot transmit caller identification. Thus, consumers have no way of knowing who called because the consumer's Caller ID device displays only a message that the identity of the caller is ''unavailable'' or some similar phrase.

[295] By the mid-1980's, call center technology was fairly simple, with only a few software applications and predictive dialer manufacturers to choose from. Rich Tehrani, ''*Oh, What Changes Time Hath Wrought,*'' 6 Call Ctr. Solutions, Dec. 1, 1999 at 18.

[296] Hurst, *Will We Kill the Goose?* at 70 (''In just eight years, predictive dialers have come to dominate outbound telemarketing.'').

[297] Predictive dialer manufacturers claim that dialers can triple the time a telemarketer spends talking on the telephone and increase productivity by 200 to 300 percent. *See* McKay, ''*Nuisance Calls,* at A1. According to one manufacturer's representative, ''[w]hen people dial manually, they can talk for maybe 15 minutes out of an hour; a predictive dialer can increase talk time up to 45 minutes per hour. *Id.* (quoting Rosanne Desmone, spokeswoman for Virginia-based EIS International Inc., a maker of predictive dialing systems). *See also,* Hamstra, *DMA to Explore Predictive Dialer Abandon Rates,* at 1 (stating that telemarketing agents can be twice as productive in a predictive dialer call center, spending an average of 45 minutes of each hour talking with customers compared to 22 minutes or less in a center that uses manual dialing).

[298] McKay, *Nuisance Calls,* at A1; Hamstra, *DMA to Explore Predictive Dialer Abandon Rates* at 1. *See also,* Rule Tr. at 50–51;57–58.

[299] *See* DMA, ''The DMA Guidelines for Ethical Business Practice,'' revised August, 1999, available at: *www.the-dma.org/library/guidelines/ethics/guidelines.shtml#6* (Article #38, Use of Predictive Auto Dialing Equipment); Rule Tr. at 60. *See also,* Hamstra, *DMA to Explore Predictive Dialer Abandon Rates* at 1.

[300] *See* ''The DMA Guidelines for Ethical Business Practice,'' Article #38. *See also* Rule Tr. at 60–61.

[301] McKay, *Nuisance Calls,* at A1 (quoting Robert Bulmash of Private Citizen, who estimates that some telemarketers set the abandonment rate as high as 40 percent). *See also,* Hamstra, *DMA to Explore Predictive Dialer Abandon Rates* at 1 (explaining that DMA's Ethics Committee meets with members who fail to abide by the guidelines, and a member who continues to be noncompliant may have its membership terminated).

[302] *See* Hamstra, *DMA to Explore Predictive Dialer Abandon Rates* at 1. *See also* Rule Tr. at 61. State legislators also have taken note of consumer dissatisfaction with abandoned calls. Although several States, including California, Maryland, Minnesota and Kansas, have considered legislation prohibiting or restricting the use of predictive dialers, only Kansas and California have passed such legislation. The Kansas bill, which was possibly the first to address the dead air issue, took effect June 1, 2000, and requires that either a ''live'' operator or a recorded message be available within 5 seconds of the call's connection with a Kansas consumer. Technically, this statute prohibits abandoned calls. *See* Kan. Stat. Ann. § 50–670(b)(6) (1999 Supp.) The California bill, which was signed on October 10, 2001, prohibits making a telephone connection for which no person is available for the person called. The bill directs the California Public Utilities Commission to establish an acceptable error rate, if any, before July 1, 2002. *See,* A.B. 870 (to be codified at Cal. Pub. Utilities Code § 2875.5). *See also,* C. Tyler Prochnow, *Keeping an Eye on Outbound Calling,* DM News, Sept. 18, 2000, p. 48; and *Telemarketer Fight a Real Call to Arms,*'' LA Times, Part A, Part 1, page 1 (September 9, 2001). *See also,* Hamstra, *DMA to Explore Predictive Dialer Abandon Rates* at 1.

[303] *See* Rule Tr. at 56–57.

[304] Rule Tr. at 50–51, 56–58, 60–61. *See also,* Hamstra, *DMA to Explore Predictive Dialer Abandon Rates* at 1.

consumers, who receive in return little, if any, benefit. The Commission, however, recognizes the tension between consumer privacy on the one hand and industry productivity on the other. In general, the Commission seeks to avoid unnecessary burdens on industry while maximizing consumer protections. In this instance, however, regardless of the increased productivity that predictive dialers provide to the telemarking industry, the harm to consumers is very real and falls squarely within the areas of abuse that the Telemarketing Act explicitly aimed to address. Using predictive dialers in a way that produces many abandoned calls is a practice that clearly ''the reasonable consumer would consider coercive or abusive of such consumer's right to privacy.'' [305] In this regard, moreover, one fact is clear: Telemarketers who abandon calls are violating § 310.4(d) of the Telemarketing Sales Rule. Section 310.4(d) requires that a telemarketer promptly and clearly dispose specified information to the person receiving the call. The Commission intends for the phase ''receiving the call'' to mean when the consumer answers the telephone. Once the consumer answers the telephone, the consumer has ''received the call'' for purposes of the Rule; the required disclosures must then be made. Once the consumer has answered the telephone, the telemarketer violates § 310.4(d) if the telemarketer disconnects the call without providing the required disclosures.

Section 310.4(d) rests on an essential balancing of the interests of telemarketers and those of consumers. In exchange for permitting what is in effect the seller's unsolicited intrusion upon a consumer's privacy and an encroachment on her time, the Rule requires only that the seller expeditiously provide the consumer with information she needs to efficiently and quickly reach a decision as to whether she will extend the conversation and allow a greater imposition on her time and her privacy, based on her interest in the offer. This balance goes seriously awry when telemarketers, in their own self-interest, employ a practice that provides consumers with only dead air yet imposes the same, if not greater, costs on consumers as does a call that actually allows them to learn who is offering to sell them something, and what is being offered. Abandoned calls rob consumers of the benefit of actually being able to consider an offer that might have made worthwhile the intrusion on their privacy and the encroachment on their time. The balance is further distorted by the fact that an abandoned call provides no opportunity for the consumer to assert a ''do-not-call'' request; and, thus, no opportunity to exercise any sovereignty whatsoever over future such intrusions on her privacy and encroachments on her valuable time.

The Commission seeks recommendations regarding alternative approaches to the use of predictive dialers. For example, should the Commission mandate a maximum setting for abandoned calls, and, if so, what should that setting be? Would it be feasible to limit the use of predictive dialers to only those telemarketers who are able to transmit Caller ID information, including a meaningful number that the consumer could use to return the call? Would providing consumers with this information alleviate the injury consumers are now sustaining as a result of predictive dialer practices? Section IX sets out questions to elicit suggestions for regulatory alternatives to the Commission's proposed action regarding predictive dialers.

Use of prisoners as telemarketers. The Commission received several comments describing the problems that can occur when sellers or telemarketers use prison inmates to telemarket goods or services, and recommending that the Commission ban the use of prisoners as telemarketers or, in the alternative, tightly regulate the use of such labor, including requiring that inmates disclose their status as prisoners when they make calls to, or receive calls from, the public.[306] In addition, this issue received considerable attention during the July Forum.[307]

Prison inmates often are used by federal and State governments, as well as private firms, to handle inbound calls to call centers or to make outbound telemarketing calls.[308] About 72,000 prisoners nationwide are employed in inmate work programs, including about 2,500 prisoners who work for private subcontractors in 38 States.[309] Supporters maintain that the programs provide a variety of benefits: to inmates, by providing job training; to the prison system, because a portion of the wages goes to offset the costs of incarceration; to taxpayers, because inexpensive labor is used to handle certain government jobs (*e.g.,* handling tourist bureau calls); and to private companies, because they gain a supply of inexpensive labor.[310]

There have been a number of publicized incidents in recent years in which inmates have abused the data and resources to which they had access through these programs to make improper, invasive, and illegal contact with members of the public.[311] These events have raised public concern about the type of personal information available to inmates who do data entry and telemarketing.[312] The commenters point out that while working as telemarketers, inmates inevitably gain access to personal information about individuals, including minors, that may endanger the lives and safety of those they call.[313]

In her written comment and in her testimony at the July Forum on the TSR, April Jordan described how an inmate working as a telemarketer selling family

[305] 15 U.S.C. 6102(a)(3)(A).

[306] *See generally* Jordan, S. Gardner, Budro, and Warren.

[307] *See* Rule Tr. at 220–245, 367–375, 443–447.

[308] For example, TWA uses prisoners to make airline reservations. *See* Julie Light, ''Look for that Prison Label: Inmate work programs raise human rights concerns,'' 64 *The Progressive* 21 (June 1, 2000). In Wisconsin, inmates have been used to solicit pledges for the Leukemia Society, to answer State lottery calls, and to give advice on avoiding highway construction zones. *See* Sam Martino, ''Using inmates to staff phones rekindles debate,'' *Milwaukee Journal Sentinel*, (Apr. 12, 1998), p. 5. Although these examples involve activities that fall outside the coverage of the FTC Act, other prison-based telemarketing can involve products and services that are within the Commission's jurisdiction. *See, e.g.*, Jordan (use of prisoners to telemarket family films).

[309] *See* Light, ''Look for that Prison Label'' at 21. Since the Prison Industry Enhancement Act was passed in 1979 (P.L. 96–157, § 827, 93 Stat 1215), State prison systems may contract with private firms to provide prison labor as long as the prison systems are authorized to do so by State law and the program is certified by the U.S. Department of Justice's Bureau of Justice Assistance.

[310] *See* Brian Hauck, ''RECENT LEGISLATION: Prison Labor,'' 37 *Harvard Journal on Legislation*, 279 (Win. 2000). *See also*, Gordon Lafer, ''America's Prisoners as Corporate Workforce,'' *The American Prospect* (Sept.-Oct. 1999), p. 66.

[311] For example, in its 1997 report to Congress on the privacy implications of individual reference services, the FTC cited an example where a prison inmate (and convicted rapist), who was employed as a data processor, used his access to a database containing personal information to compose and send a threatening letter to an Ohio grandmother. *See* FTC, *Individual Reference Services: A Report to Congress* (Dec. 1997), at p. 16.

[312] Several States, including Wisconsin, Nevada, and Massachusetts, have considered legislation that would require their Departments of Correction to restrict prisoners' access to personal information about persons who are not prisoners and/or to require prisoners conducting telephone solicitations or answering inbound calls to identify themselves as prisoners. The Utah State Prison stopped using inmates as telemarketers after conceding that they could not ensure that prisoners would not misuse personal information they obtain. *See* ''Prison to End Telemarketing By Inmates,'' *Salt Lake Tribune* (June 1, 2000) p. B1. In addition, DMA noted that it had supported legislation banning the use of inmates in remote sales situations because these sales require the telemarketer to get personal information from the consumer. *See* Rule Tr. at 371–372.

[313] *See generally* Jordan, Gardner, Warren, and Budro.

films engaged in an improper conversation with her minor daughter and was able to manipulate the youngster into revealing a great deal of personal information, including her address and physical description.[314] In addition, Attachment VI of Ms. Jordan's comment includes newspaper and television reports describing other instances where inmates misused personal information they had received while doing data entry or working as telemarketers.

The Commission is extremely concerned about the misuse of the access to consumers that prisoners have when they work as telemarketers, and in the potential misuse of personal information and abusive telemarketing activity that has occurred in connection with prison-based telemarketing. Nevertheless, the Commission believes that some public benefit may be provided by inmate work programs that entail telemarketing. The record complied to date contains insufficient information upon which to base a proposal regarding prisoner-telemarketing or to assess the costs and benefits of such a proposal.

Possible regulatory approaches under consideration to address prison-based telemarketing abuses. The Commission could propose disclosure requirements or screening and monitoring requirements to govern prisoner-based telemarketing. It is not clear, however, that such requirements are workable, or if workable, whether they would adequately protect consumers from misuse of personal information in this context. The Commission notes that even the most stringent screening and monitoring procedures instituted by those using inmate work programs have not prevented prisoners from misusing the personal information to which they have access. Telemarketing, by its very nature, is an interactive medium in which the prisoner will be talking directly with a potential customer. Even if prisoners are given scripts to use during the solicitation, nothing short of 100% monitoring can ensure that they adhere to the script and do not digress into ''personal'' conversations with consumers.[315] Moreover, even a list containing only the names and telephone numbers of consumers can provide valuable personal information about consumers that can be abused. Sellers and telemarketers frequently use lists that target particular types of consumers for their solicitations. Thus, a telemarketer may be able to deduce important personal information about a particular consumer simply by virtue of the fact that the consumer's name and telephone number appear on a list for a particular sales campaign. For example, a campaign to sell children's videos presumably would target households with young children. The Commission is not now convinced that any approach short of banning prison-based telemarketing as an abusive practice would ensure sufficient protection for consumers against misuse of their personal information, or other abuses associated with this form of telemarketing.

Therefore, the Commission is considering whether prison-based telemarketing ought to be banned as an abusive practice. Clearly the consumer privacy concerns that in no small measure prompted Congress to enact the Telemarketing Act are implicated by this activity. Although it seems clear that prison-based telemarketing may cause significant unavoidable consumer injury, similar risks may occur from telemarketing employees who are not in prison (*e.g.*, former convicts). Prison-based telemarketing is presumably employed because it is less costly than alternatives, which constitutes a countervailing benefit to consumers or to competition that might outweigh the harm. Moreover, a ban on prisoner telemarketing would only affect sellers and telemarketers that are subject to the Rule. Individuals and entities outside the scope of the FTC Act would not be affected in their telemarketing activities. Therefore, in this notice, the Commission seeks more information from commenters, particularly on the costs to consumers and the measurable benefits to consumers or to competition of prison-based telemarketing, to enable it to determine the most appropriate Commission action with regard to this activity.

Courier pickups. AARP recommended that the Commission ban the use of couriers to pick up payments unless the consumer has an opportunity to inspect any goods before payment is collected.[316] AARP noted that, in the initial TSR rulemaking in 1995, both the Commission and State law enforcement agencies recognized that courier pickups were disproportionately associated with fraudulent telemarketing.[317] AARP pointed out that courier pickups are commonly used in fraudulent prize and sweepstakes promotions because the courier collects the payment before the consumer has had a chance to change his or her mind, and because the contest seems more ''official'' if a ''bonded courier'' comes to pick up the payment.[318] AARP also stated that fraudulent businesses that target low-income consumers also often use courier pickups.[319]

In its 1995 rulemaking to promulgate the TSR, the Commission initially proposed prohibiting any seller or telemarketer from providing for or directing a courier to pick up payment from a customer.[320] However, the Commission deleted that ban from the subsequent revised proposed Rule and, ultimately, from its final Rule after determining that such a ban was unworkable.[321] In this regard, the Commission stated:

> There is nothing inherently deceptive about the use of couriers by legitimate business, and * * * legitimate businesses use them. While fraudulent telemarketers often use couriers to obtain quickly the spoils of their deceit, such telemarketers engage in other acts or practices that clearly are deceptive or abusive, and that are prohibited by this Rule. Thus, the prohibition of courier use is unnecessary * * *[322]

Based on the comments it had received, Commission staff raised the issue of banning courier pickups at the July Forum.[323] However, the discussion did not provide any evidence indicating that the conclusion the Commission drew in 1995 is now invalid. Absent record evidence to the contrary, the Commission declines to modify the TSR to prohibit the use of courier pickups for payments.

Sale of victim lists. NAAG recommended that the Commission ban

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[314] *See generally* Jordan and Rule Tr. at 220–245, 443–447.

[315] In the case involving the Utah prisoner who engaged in inappropriate conversations with minors, there were numerous safeguards to protect against abuse. First, once the main computer system dialed a number and someone answered, the call would be transferred to an inmate telemarketer. The only information the inmate saw was the name the phone number was listed under and the name of the person who gave the referral. If the consumer expresed interest in the product, the call was switched to a civilian representative who worked outside the prison; that representative gathered additional information in connection with the transaction. Second, two separate systems had been set up to randomly monitor the prisoners' conversations with consumers, including built-in ''alerts'' that notified the security personnel if a call lasted over 15 minutes. Abuses occurred despite all of these precautions. *See* Jordan, Attachment III.

[316] *See* AARP at 5; Rule Tr. at 382–383.

[317] AARP at 5 (*citing* ''Comments of the Federal Trade Commission, Public Hearing on Telemarketing Sales Rule, Chicago, Illinois, April 1995'' and ''Comments and Recommendations of the Telemarketing Fraud Task Force of the Consumer Protection Committee of the National Association of Attorneys General in the Matter of the Proposed Telemarketing Sales Rule. FTC File No. R411001 (1995), pp. 18–19'').

[318] AARP at 5; Rule Tr. at 382–383.

[319] *Id.*

[320] Initially proposed Rule § 310.4(a)(2). 60 FR at 8330.

[321] 60 FR at 30415.

[322] *Id.*

[323] *See* Rule Tr. at 382–383.

as an abusive act or practice the sale of ''sucker'' lists (lists of known victims of telemarketing scams); its recommendation was echoed by several participants at the July Forum.[324]

In its 1995 rulemaking to promulgate the TSR, the Commission initially proposed prohibiting any person from selling, renting, publishing, or distributing any list of customer contacts when that person is subject to a federal court order for violations of certain provisions of the TSR.[325] However, the Commission deleted that ban from the subsequent revised proposed Rule and, ultimately, from its final Rule after determining that such a ban was best left to the discretion of law enforcement agencies to seek in individual law enforcement actions before the courts.[326]

Based on the comments it had received, Commission staff raised the issue of banning the sale of victim lists at the July Forum.[327] During the discussion at the forum, participants raised many of the same arguments for and against the prohibition that were raised during the initial rulemaking. Although participants agreed that the sale of ''sucker'' lists was a pernicious practice that should be stopped, they also agreed that it was extremely difficult to define ''victim.'' Participants also noted the danger of overbreadth in such a provision, and infringement on a consumer's sovereignty in the matter of which telemarketing calls he or she might wish to receive, simply because the consumer had once been defrauded.[328] The discussion did not provide any evidence that the conclusion the Commission drew in 1995 was incorrect. Moreover, the Commission believes it is highly likely that any telemarketer attempting to defraud those who have previously been victimized by telemarketing fraud will violate one or more existing provisions of the Rule, and thus be subject to liability without a provision addressing sucker lists. Therefore, the Commission declines to amend the TSR to prohibit the sale of lists of known telemarketing victims.

Targeting vulnerable groups. NAAG recommended that the Commission amend the TSR to prohibit the targeting of vulnerable groups (such as the elderly) in telemarketing schemes that contain any misrepresentation of material fact.[329] This issue was raised at the July Forum.[330] The results of that discussion have led the Commission to conclude that prohibiting this practice would raise issues similar to those encountered in attempting to prohibit the sale of victim lists, as discussed above. There is nothing inherently harmful about directing sales efforts to a particular segment of the population—even ''vulnerable'' ones—*provided* the efforts do not entail unfair or deceptive practices. It is these practices, not ''targeting'' per se, that gives rise to injury. Moreover, these practices independently violate the Rule. Adding targeting as a Rule violation would, at best, provide ''makeweight'' allegations that serve little purpose. Such a violation, standing alone, would not likely provide a basis for law enforcement action. Moreover, it would be very difficult to define what constitutes a ''vulnerable'' group without infringing on consumers'' prerogatives to receive offers and information that may be valuable to them, or without unduly hindering legitimate telemarketers from focusing their marketing campaigns.[331] As with the sale of victim lists, the Commission believes that combating the practice of targeting vulnerable groups is a challenge best left to the discretion of law enforcement agencies who may seek injunctions and other penalties on a case by case basis in individual law enforcement actions.

Definition of ''promptly.'' Section 310.4(d) requires that a telemarketer in an outbound call promptly disclose certain information to the person being called.[332] Several commenters urged the Commission to define the term ''promptly.''[333] These commenters suggested that, by failing to define the term, the Rule gives too much latitude to the telemarketer as to when such disclosures should be made.[334] Other commenters supported the current wording, believing the standard strikes the appropriate balance.[335]

The wording of this provision adopts the statutory language found in the Telemarketing Act.[336] Furthermore, the Commission believes that its discussion of this term in the Statement of Basis and Purpose of the Rule is absolutely clear that, while industry is allowed some flexibility, the disclosures must occur *at once or without delay, and before any substantive information* about a prize, product, or service is conveyed to the consumer.[337] Although commenters suggested other terms that might be used instead of the word ''promptly,''[338] the Commission does not believe that those suggestions provide any greater precision than does the current wording. Therefore, the Commission has determined to retain the current wording of this provision.

Multiple purpose calls. Several commenters noted that there has been a problem with dual purpose calls—*i.e.*, calls that combine selling with some other activity, such as conducting a prize promotion or survey, or assessing whether a customer is satisfied with a recent purchase.[339] These commenters state that the problem has been particularly acute in the outbound sale of magazines, where a prize or sweepstakes offer is used to solicit the purchase of a magazine subscription.[340] NAAG states that some telemarketers fail to make the required disclosures up front and, when challenged, contend that the primary purpose of the call is to solicit a sweepstakes entry, not to sell a magazine subscription.[341] For this reason, NAAG and NACAA recommend that, instead of relying upon language in the Statement of Basis and Purpose (discussed below), the TSR should contain a provision that expressly deals with multiple purpose calls and that the provision should require telemarketers to make the required oral disclosures, including the cost disclosures required by § 310.3(a)(1)(i), before soliciting the consumer to enter a sweepstakes or prize promotion or before mentioning any other purpose of the call.[342]

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[324] *See* NAAG at 19. *See also* Rule Tr. at 354–363.

[325] Initially proposed Rule § 310.4(f); 60 FR at 8332.

[326] 60 FR at 30420.

[327] *See* Rule Tr. at 354–367.

[328] *See* Rule Tr. at 355–356, 360–361, 366–367.

[329] NAAG at 20.

[330] *See* Rule Tr. at 380–382.

[331] *See* Rule Tr. at 380–382.

[332] The Rule requires the telemarketer to disclose promptly the identity of the seller, that the purpose of the call is to sell goods or services, the nature of the goods or services, and that no purchase or payment is necessary to win a prize or participate in a prize promotion. 16 CFR 310.4(d).

[333] *See* LSAP at 2; NAAG at 14; NACAA at 2; Texas at 2.

[334] NAAG at 14.

[335] *See* ARDA at 2; Gannett at 1 (noting that many State laws contain different timing requirements for making the required disclosures to the detriment of the effectiveness of telemarketing); MPA at 9–10; NASAA at 3.

[336] The Telemarketing Act requires the Commission to include in its Rule ''a requirement that any person engaged in telemarketing for the sale of goods or services shall promptly and clarly disclose to the person receiving the call that the purpose of the call is to sell goods or services and make other such disclosures as the Commission deems appropriate.'' 15 U.S.C. 6102(a)(3)(C).

[337] 60 FR at 43856, generally and at n.150.

[338] *See* LSAP at 2 (define as ''when a consumer answers an outbound telemarketing call''); NACAA at 2 (define as ''immediate and at commencement of the call''); NAAG at 14 (define as ''at the onset of the call''); Texas at 2 (define as ''prior to making the sales presentation'').

[339] NAAG at 6–8; NACAA at 2.

[340] NAAG at 6–7.

[341] *Id.* at 7.

[342] *Id.* at 8; NACAA at 2.

The Commission does not believe that the cost disclosures required by § 310.3(a)(1)(i) should be one of the required oral disclosures that must be given promptly at the beginning of the call. These cost disclosures are more meaningful to the consumer when made in conjunction with the remainder of the disclosures required by § 310.3(a)(1). So long as the disclosures that are required by § 310.4(d) are made promptly, consumers will be put on notice that, at some point during the call, they will be offered the chance to purchase a good or service. In addition, the prompt disclosures serve as an obstacle to those telemarketers who would seek to mischaracterize a sales transaction as something else (*e.g.*, as a survey or as a contest).

The Commission also believes that its position with respect to multiple purpose calls is clear. In the Rule's Statement of Basis and Purpose, the Commission stated:

> [T]he Commission believes that in any multiple purpose call where the seller or telemarketer plans, in at least some of those calls, to sell goods or services, the disclosures required by this section of the Rule must be made ''promptly,'' during the first part of the call, before the non-sales portion of the call takes place. Only in this manner will the Rule assure that a sales call is not being made under the guise of a survey research call, or a call for some other purpose.[343]

The Commission believes that this language leaves no room for doubt that the sale of goods or services does not have to be the *primary* purpose of the call; it only has to be *one* of the purposes in order to trigger the required oral disclosures. Thus, in any call in which one of the purposes is to sell goods or services, the required disclosures must be made ''promptly'' before any discussion of any sweepstakes, survey, or other non-sales purpose. Therefore, because the Commission made its intention so clear in the Statement of Basis and Purpose regarding when disclosures must be made in a multiple purpose call, it is unnecessary to amend the Rule to deal expressly with those types of calls.

Number and address of telemarketer. NASAA recommended that the Rule be modified to track the language of the NASD Rule that requires the telemarketer to disclose the telephone number and address at which the *telemarketer* can be contacted.[344] NASAA contends that this would expand the definition of ''identity of the seller'' and provide the consumer with important information that could be used to identify the telemarketer to the consumer or to regulatory agencies should the consumer have a complaint.[345] The Commission agrees that the identity of the telemarketer is often helpful to law enforcement agencies when investigating fraudulent telemarketing activities. However, from the consumer's perspective, the identity of the seller continues to be the most vital piece of information that consumers must capture when a telemarketer calls, since it is the seller to which the consumer would direct complaints, requests for refund, as well as ''do-not-call'' requests under the Rule. In addition, the Commission believes that the initial oral disclosures should be succinct in order to avoid confusing consumers with an overload of information. Therefore, the Commission declines to adopt NASAA's recommendation.

E. Section 310.5—Recordkeeping

Section 310.5 of the Rule describes the types of records sellers or telemarketers must keep, and the time period for retention.[346] Specifically, this provision requires that telemarketers must keep for a period of 24 months: all substantially different advertising, brochures, scripts, and promotional materials; information about prize recipients; information about customers, including what they purchased, when they made their purchase, and how much they paid for the goods or services they purchased; information about employees; and all verifiable authorizations required by § 310.3(a)(3).

Commenters generally favored the recordkeeping provisions, noting that they have not been unduly burdensome[347] and that they have provided necessary guidance to industry members about what records must be kept and for how long.[348] In particular, MPA noted with approval the requirement in § 310.5(a)(1) that only substantially different advertising materials need be retained under the Rule, which equitably balances the needs of businesses with those of consumers.[349]

Reese was the only commenter who found the cost of recordkeeping burdensome,[350] suggesting that the Commission could alleviate this burden either by allowing that such records be kept for a shorter time, such as 90 days from the time of sale, delivery, or presentment of charges in writing, or that the length of time for record retention vary depending on the value of the purchase made by telephone, with longer record storage requirements for more expensive sales.[351] Bell Atlantic suggested that the record retention period be reduced to only 12 months for companies that offer money back guarantees, which would reduce the burden on such companies and create an incentive in the marketplace to offer such guarantees.[352]

The Commission declines to reduce the record retention period for telemarketing transactions. As the Commission noted in its discussion of the recordkeeping provision in the Rule's Statement of Basis and Purpose, the 24-month record retention period ''is necessary to provide adequate time for the Commission and State law enforcement agencies to complete investigations of noncompliance.''[353] The Commission further noted that the burden on business in keeping records for 24 months was carefully balanced by designating that those records to be kept were those already routinely maintained by businesses in the ordinary course of business. Nothing in the Rule review record suggests that a shorter time period for retention would meet the needs of law enforcement, and the Commission finds no compelling evidence in the Rule review record that such a change is necessary to alleviate any undue burden on industry.

The Commission also rejects the proposal to tie the duration of record retention to either the value of the goods or services sold or to the refund policy of the seller. As to the former, the Commission has numerous examples in its law enforcement experience of telemarketing frauds where large numbers of consumers have been bilked out of small amounts of money.[354] While the injury per consumer may have been small in such cases, the cumulative injury was substantial. Consequently, the Commission believes that eliminating the 24-month retention requirement for transactions below a

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[343] 60 FR at 43856.

[344] NASAA at 3.

[345] *Id.*

[346] The Telemarketing Act expressly authorizes the Commission to require recordkeeping in the TSR. 15 U.S.C. 6102(a).

[347] *See* ARDA at 4 (noting that, independent of State law requirements for recordkeeping, particularly for ''do-not-call'' requests, the TSR has not been burdensome on ARDA members).

[348] MPA at 10.

[349] *Id.*

[350] Reese at 8 (stating that ''[i]ndustry practice is to store audiotapes of sales for 2–3 years to satisfy FTC record keeping and for future retrieval in the event of disputes' and that the cost of this adds 2% to operating costs).

[351] *Id.*

[352] Bell Atlantic at 7.

[353] 60 FR at 43857.

[354] *See, e.g., FTC* v. *Progressive Media, Inc.,* No. C96–1723WD (W.D. Wash. July 23, 1997) (employment opportunities, scholarships/ financial aid for $39.95 to $69.95); *FTC* v. *Ed Boehlke,* No. CIV96–0482–E–BLW (D. Idaho, filed Nov. 4, 1996) (work-at-home kits for $38.95).

certain dollar threshold would be detrimental to consumers. Similarly, the Commission rejects the proposal to shorten the record retention period for companies offering money back guarantees. Although a money back guarantee can be beneficial for consumers, the guarantee is only as good as the company that offers it. The Commission's law enforcement experience is replete with examples of companies engaging in fraud or deception, including misrepresentations regarding their money back guarantees.[355] Law enforcement would still require a 24-month period of records in order to complete investigations of noncompliance.

Finally, pursuant to section 1011 of the USA PATRIOT Act, the recordkeeping provisions of the Rule will now be applicable to telemarketers who solicit charitable contributions, as well as to those who attempt to induce the purchase of goods and services. Therefore, telemarketers now will be required to adhere to § 310.5, regardless of whether they are attempting to induce the purchase of goods or services or a charitable contribution.[356] The only explicit modification proposed to § 310.5 is made to extend the provision's coverage to include charitable solicitations in a non-sales context. Specifically, in § 310.5 (a)(4), the phrase ''employees directly involved in telephone sales'' is now directly followed by the phrase ''or solicitations of charitable contributions.''

F. Section 310.6—Exemptions

Section 310.6 exempts certain telemarketing activities from the Rule's coverage.[357] The exemptions to the Rule were designed to ensure that legitimate businesses are not unduly burdened by the Rule, and each is justified by one of four factors: (1) Whether Congress intended a particular activity to be exempt from the Rule; (2) whether the conduct or business in question is already the subject of extensive federal or State regulation; (3) whether the conduct at issue lends itself easily to the forms of abuse or deception the Telemarketing Act was intended to address; and (4) whether the risk that fraudulent sellers or telemarketers would avail themselves of the exemption outweigh the burden to legitimate industry of compliance with the Rule.[358]

The exemptions to the Rule generated a significant number of written comments, and were also the subject of extensive discussion at the July Forum. Law enforcement and consumer groups generally favored limiting the exemptions,[359] while the business community generally favored retaining the current exemptions.[360]

No comments were received recommending changes to § 310.6(d), which exempts ''calls initiated by a consumer that are not the result of any solicitation by a seller or telemarketer.'' The proposed Rule retains this provision unchanged, except for expanding the exemption to charitable solicitations that are not the result of any solicitation. Based on the record in this proceeding, and on its law enforcement experience, the Commission proposes several modifications to other subsections of § 310.6.

First, the Commission proposes modification to §§ 310.6(a), 310.6(b) and 310.6(c) in order to require telemarketers and sellers of pay-per-call services, franchises, and those whose sales involve a face-to-face meeting before consummation of the transaction to comply with the ''do-not-call'' and certain other provisions of § 310.4.

Second, the Commission proposes to modify the general media exemption to make it unavailable to telemarketers of credit card loss protection plans and business opportunities other than business arrangements covered by the Franchise Rule.

Third, the Commission proposes modifying the exceptions to the direct mail exemption, § 310.6(f). As in the case of the general media exemption, the direct mail exemption is unavailable to telemarketers of certain goods or services that are particularly susceptible to fraud. The Commission proposes to add to this list of problematic goods or services. Specifically, the direct mail exemption will no longer be available to telemarketers of credit card loss protection plans or business opportunities other than business arrangements covered by the Franchise Rule. In addition, the proposed Rule would make clear that email and facsimile messages are direct mail for purposes of the Rule.

Fourth, pursuant to the USA PATRIOT Act amendment of the Telemarketing Act, the Commission also proposes to expand certain of the exemptions to include charitable solicitations. Thus, the proposed Rule would exempt: charitable solicitation calls that are followed by face-to-face payment, § 310.6(c); prospective donors' inbound calls not prompted by a solicitation, § 310.6(d); charitable solicitation calls placed in response to general media advertising, § 310.6(e); and charitable solicitation calls placed in response to direct mail solicitations that comply with § 310.3(a)(1). In addition, the Commission proposes to make the business-to-business exemption unavailable for charitable solicitation calls (along with calls for the sale of Internet services, Web services, or the retail sale of nondurable office of cleaning supplies), § 310.6(g). The Commission's law enforcement experience demonstrates that fraudulent charitable solicitations directed at businesses are a widespread problem. Consequently, telemarketers that solicit charitable contributions from businesses should not be exempt from complying with the TSR.

Sections 310.6(a), (b) and (c)—Exemptions for Pay-Per-Call Services, Franchising, and Face-to-Face Transactions

Section 310.6(a) of the original Rule exempts from the Rule's requirements those transactions that are subject to the Commission's Pay-Per-Call Rule.[361] Similarly, § 310.6(b) exempts transactions subject to the Commission's Franchise Rule.[362] Section 310.6(c) exempts from the Rule's requirements

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[355] *See, e.g., FTC* v. *Telebrands Corp. et al.,* FTC Docket No. C–3699; and modified Order, 96–0827–R (Turk), (W.D. Va. Sept. 1, 1999) (products via mail and telephone order); *In the Matter of Gateway 2000, Inc.,* FTC Docket No. C–3844 (1998) (mail order computers); *FTC* v. *Progressive Media, Inc., et al.,* C96–1723WD (W.D. Wash. July 23, 1997) (employment opportunities, scholarships/financial aid); *FTC* v. *Ed Boehlke,* No. CIV96–0482–E–BLW; *FTC* v. *Universal Credit Corp.,* 96–114–LHM(EEx) (C.D. Calif. Feb. 9, 1996) (credit repair); *FTC* v. *Environmental Protection Servs.,* No. 89–1498 (S.D. Fla. 1989).

[356] When provisions within this section specifically contemplate recordkeeping by ''sellers'' or only require recordkeeping about ''customers,'' telemarketers soliciting charitable contributions will be exempt from compliance.

[357] Specifically, the Rule exempts: (1) Goods and services subject to the Commission's 900–Number Rule and Franchise Rule; (2) telemarketing sales consummated by face-to-face transactions; (3) inbound telephone calls that are not the result of any solicitation by the seller or telemarketer; (4) telephone calls in response to a general media advertisement (except those related to investment opportunities, credit repair, ''recovery'' or advance fee loan services); (5) inbound telephone calls in response to direct mail solicitations that truthfully disclose all material information (except solicitations relating to prize promotions, investment opportunities, credit repair, ''recovery'' or advance fee loan services); and (6) business-to-business telemarketing (except calls involving the retail sale of non-durable office or cleaning supplies).

[358] 60 FR at 43859.

[359] *See* FAMSA at 2; NAAG at 16–17; NACAA at 2; NCL at 5.

[360] *See* ARDA at 5; DSA at 4; ERA at 4; ICFA at 1–2; MPA at 10; Reese at 12.

[361] Trade Regulation Rule pursuant to the Telephone Disclosure and Dispute Resolution Act of 1992, 16 CFR part 308.

[362] Rule Regarding Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures, 16 CFR part 436.

those transactions in which the sale of goods or services is not completed, and payment or authorization of payment is not required, until after a face-to-face sales presentation by the seller.[363] The Commission proposes to retain the exemptions for pay-per-call services, franchising, and face-to-face transactions set out in §§ 310.6(a)–(c),[364] but to require these telemarketers to comply with § 310.4(a)(1) (prohibiting threats, intimidation or use of profane or obscene language), § 310.4(a)(6) (blocking, circumventing, or altering the transmission of the name and/or telephone number of the calling party on Caller ID), § 310.4(b) (prohibiting abusive pattern of calls, and requiring compliance with ''do-not-call'' provisions), and § 310.4(c) (calling time restrictions).

No comments were received regarding §§ 310.6(a) or (b). Commenters generally favored § 310.6(c), noting that it appropriately excludes from the Rule's coverage transactions in which the incidence of telemarketing fraud and abuse is lessened by a subsequent in-person meeting between a customer and a seller.[365] The Commission continues to believe that the incidence of fraud may be lessened when a transaction is not completed, and payment is not made, until a face-to-face meeting occurs between the buyer and seller. Thus, the proposed Rule would continue to exempt face-to-face transactions from the provisions relating to deceptive practices. For the same reasons, the Commission proposes to expand the ''face-to-face'' exemption to those charitable solicitations where the donation or payment is made subsequently in a face-to-face setting. Similarly, the Commission continues to believe that the Pay-Per-Call Rule and the Franchise Rule provide protection against deceptive practices for consumers seeking to purchase those goods or services. Thus, the proposed Rule would continue to exempt transactions subject to the Commission's Pay-Per-Call Rule and Franchise Rule from the provisions relating to deceptive practices.

On the other hand, the Rule review record makes clear that consumers are increasingly frustrated with unwanted telemarketing calls, including those soliciting for pay-per-call services or sales appointments.[366] One consumer who spoke during the public participation portion of the ''Do-Not-Call'' Forum noted frustration about her inability to invoke her right not to be called again by a company that called her to solicit a sales appointment.[367] A number of participants in the July Forum concurred that the ''do-not-call'' provision of the Rule should also be applicable to calls where a seller attempts to set up an in-person sales meeting at a later date.[368]

The Telemarketing Act mandates that the Commission's Rule address abusive telemarketing practices and specifically mandates that the Commission's Rule include a prohibition on calls that a reasonable consumer would consider coercive or abusive to the consumer's right to privacy, as well as restrictions on calling times.[369] The incidence of fraud may be diminished in face-to-face telemarketing transactions or when the transactions are subject to regulation by other Commission rules, but the Rulemaking record shows that these transactions are not less susceptible to the abusive practices prohibited in § 310.4.[370] For this reason, the Commission agrees that telemarketing calls to solicit a face-to-face presentation or to solicit the purchase of pay-per-call services should be subject to certain of the Rule's provisions designed to limit abusive practices. Because franchise sales generally involve a face-to-face meeting at some point, these transactions are simply another type of face-to-face transaction and thus the telemarketing of franchises should be held to the same standard.

Therefore, the Commission proposes to retain the exemptions for pay-per-call services, franchising, and face-to-face transactions set out in §§ 310.6(a)–(c), but to require that telemarketers making these types of calls comply with §§ 310.4(a)(1) and (6), and §§ 310.4(b) and (c). The proposed Rule would continue to exempt these calls from the requirements of § 310.3 relating to deceptive practices and from the recordkeeping requirements set out in § 310.5.[371] These calls would also continue to be exempt from providing the oral disclosures required by § 310.4(d). Similarly, telemarketers soliciting charitable donations would be exempt from § 310.4(e) when the payment or donation is made subsequently in a face-to-face setting. However, the proposed Rule would require that, even when a call falls within these exemptions, a telemarketer may not engage in the following practices:

- Threatening or intimidating a customer, or using obscene language;
- Blocking Caller ID information;
- Causing any telephone to ring or engaging a person in conversation with intent to annoy, abuse, or harass the person called;
- Denying or interfering with a persons's right to be placed on a ''do-not-call'' registry;
- Calling persons who have placed themselves on the central ''no-call'' registry list maintained by the Commission or calling persons who have placed their names on that seller's ''do-not-call'' list; and
- Calling outside the time periods allowed by the Rule.

Section 310.6(d)—Exemption for Calls a Customer or Donor That Do Not Result From a Solicitation

As part of the implementation of the USA PATRIOT Act amendments, the Commission proposes to expand this exemption to prevent the Rule from covering calls initiated by a donor that do not result from any solicitation by a charitable organization or telemarketer. In exempting commercial calls that are not the result of any solicitation by a seller, the Commission stated in the Statement of Basis and Purpose for the original TSR, ''Such calls are not deemed to be part of a telemarketing ''plan, program, or campaign * * * to induce the purchase of goods or services.''''[372] Similarly, calls placed without the prompting of a solicitation by a charitable organization or telemarketer are not deemed to be part of a ''plan, program, or campaign which is conducted to induce * * * a charitable contribution, donation, or gift of money or any other thing of value * * *'', by use of one or more telephones and which involves more than one interstate telephone call.

[363] Face-to-face transactions are also covered by the Commission's Rule Concerning Cooling-Off Period for Sales Made at Homes or at Certain Other Locations, 16 CFR part 429.

[364] No modifications to §§ 310.6(a) & (b) are necessary to implement the USA PATRIOT Act amendments, because charitable solicitations are not likely to be combined with pay-per-call or franchise sales. Therefore, there is no need to expressly exempt such an unlikely scenario from TSR coverage. However, modification of § 310.6(c) is proposed in order to exempt charitable solicitations that entail a face-to-face meeting before the donor pays.

[365] *See* ARDA at 5; DSA at 3; ICFA at 2.

[366] *See generally* the text, above, discussing § 310.4(b).

[367] *See* Mey generally; DNC Tr. at 241–246.

[368] *See* Rule Tr. at 291–296.

[369] 15 U.S.C. 6102(a)(1) and (3)(A) and (B).

[370] *See* Gindin at 1; Mey generally; DNC Tr. at 241–246; Rule Tr. at 291–295.

[371] Of course, a seller or telemarketer would have to keep documentation in order to successfully raise the ''safe harbor'' defense in § 310.4(b)(2) regarding compliance with the proposed Rule's ''do-not-call'' requirements.

[372] 60 F.R. 43860 (Aug. 23, 1995).

Section 310.6(e)—General Media Advertising Exemption

Section 310.6(e) of the Rule exempts calls initiated by a customer in response to general media advertisements, except for telemarketing calls offering credit repair services, ''recovery'' services, or advance fee loans. The proposed Rule adds credit card loss protection plans and business opportunities other than business arrangements covered by the Franchise Rule to the list of exceptions to the exemption for general media advertisements. In addition, pursuant to the USA PATRIOT Act amendments, the proposed Rule expands the exemption to exclude from the Rule's coverage calls initiated by a donor in response to general media advertisements.

ERA and Reese recommended retaining the general media advertising exemption.[374] ERA stated that inbound calls in response to most general media advertisements are appropriately excluded from the Rule's coverage because they are not traditionally subject to the abuses the Act addresses, and because fraudulent general media advertisements can be addressed under Section 5 of the FTC Act.[375] These commenters argued that the current exemption is justified because it is less common to find fraudulent offers of products or services promoted via general media advertisements. In addition, they argued that consumers are less susceptible to believing dubious prize promotions when they are presented through general media than when presented as an offer for which they have been ''specially selected.'' [376]

Other commenters disagreed with ERA and Reese, recommending that the general media advertising exemption be removed from the Rule entirely. These commenters argued that the general media exemption is inconsistent with the intent of the Telemarketing Act to cover all telemarketing calls except those in response to a catalog solicitation.[377] Commenters also noted that there can be little justification for exempting telemarketers from the Rule's coverage simply because they avail themselves of advertising via television, newspaper, or the Internet, while regulating telemarketers who use direct mail solicitations, which is another form of general media advertising.[378]

These commenters further argued that the current general media advertising exemption provides insufficient protection for consumers,[379] pointing out that consumer complaints about fraudulent telemarketing schemes are often the result of advertisements placed in general media sources.[380] NCL noted that the exemption for such advertisements is especially troubling because the solicitations rarely, if ever, provide enough information for a consumer to make an informed purchasing decision, leaving the consumer to base his or her decision on unregulated representations made in the subsequent inbound telephone call.[381] NCL recommended creating an exception to the general media advertising exemption that would subject calls in response to such advertisements to the Rule's requirements unless the initial advertisements contained full information about the offer.[382]

When the original Rule was promulgated, the Commission decided to include narrowly-tailored exemptions in order to avoid unduly burdening legitimate businesses and sales transactions that Congress specifically intended not to be covered under the Rule.[383] A review of the legislative history of the Telemarketing Act indicates that the implicit concern behind the Act was with deceptive solicitations that directly target an individual consumer or address (*e.g.,* outbound telephone calls or direct mail solicitations that induce the consumer to call a telemarketer), not with calls prompted by deceptive advertisements in general media such as infomercials, television commercials, home shopping programs, or telephone Yellow Pages that are broadcast to the general public.[384] Thus, the Commission believes that the general media exemption is consistent with the Congressional intent and that the exemption should not be removed from the Rule.

Similar reasoning leads the Commission to propose extending this exemption to calls placed by donors in response to general media advertising. Nothing in the Commission's enforcement experience, or in the text of section 1011 of the USA PATRIOT Act or its legislative history indicates that these kinds of calls have raised concerns that would warrant coverage by the TSR.

Although general media was exempted from the Rule's requirements in the original rulemaking, the Commission noted that deceptive telemarketers of certain types of products or services did use mass media or general advertising to entice their victims to call. Those products and services included investment opportunities, credit repair offers, advance fee loan offers, and ''recovery'' services. Therefore, the Commission made this exemption unavailable to sellers and telemarketers of those specified products and services.

In criticizing the general media exemption, NCL cited work-at-home schemes as an example of a scheme commonly promoted using advertisements in newspapers or magazines, noting that the number one complaint reported to the NFIC in 1999 was such scams.[385] The Commission agrees with NCL that an increasing number of telemarketing fraud solicitations for work-at-home schemes and other job opportunities appear in general media advertising. Complaint data show that the single greatest per capita monetary loss category in complaints reported to the FTC is for business opportunities, including work-at-home schemes, and that many of these are advertised through general media.[386] The Commission has devoted much of its resources to law enforcement involving business opportunity schemes in general, and work-at-home schemes in particular, over the last several years.[387] Of course, the Commission's Franchise Rule addresses the activities of some business opportunity ventures; however, the Commission's law enforcement experience and the Rule review record confirm that there are ever-emerging permutations of these business arrangements that are not subject to the Franchise Rule, but that have proven to be popular avenues of fraud in the marketplace, and therefore merit treatment here.

In recognition of the fact that telemarketing fraud perpetrated by the

[373] USA PATRIOT Act, Pub. L. 107–56 (Oct. 25, 2001) § 1011(d).

[374] *See* ERA at 5; Reese at 12.

[375] ERA at 5.

[376] *See* ERA at 5; Rule Tr. at 276–281, 287–291.

[377] *See* NAAG at 16; NCL at 15.

[378] NAAG at 16. Most solicitations in response to direct mail are exempt from the Rule's coverage provided that the mailing clearly, conspicuously, and truthfully discloses all material information required by § 310.3(a)(1). 16 CFR 310.6(f).

[379] NAAG at 16; NCL at 15.

[380] NCL at 15.

[381] *Id.*

[382] NCL at 15. This approach is similar to that adopted in the Rule for direct mail solicitations. *See* 16 CFR 310.6(f).

[383] 60 FR at 43859.

[384] *See, e.g.,* H. Rep. 102–421, 102d Cong., 1st Sess. (1991) (describing the way in which telemarketing schemes work and detailing a wide variety of boiler room and direct mail schemes targeted at specific individuals).

[385] *See* NCL at 15. According to NCL, complaint data show that 24 percent of work-at-home offers were initiated through print advertising, a figure more than double that for offers of other kinds, which originate in print advertising in only 11 percent of the cases.

[386] Rule Tr. at 282.

advertising of work-at-home and other business opportunity schemes in general media sources is a prevalent and growing phenomenon, the Commission proposes to make the general media advertising exemption unavailable to sellers and telemarketers of business opportunities other than business arrangements covered by the Franchise Rule or any subsequent Rule covering business opportunities the Commission may promulgate. The proposed Rule also makes this exemption unavailable for sellers and telemarketers of credit card loss protection plans.[388] Otherwise, the Commission believes that the proposed Rule's focus on credit card loss protection plans, including new affirmative disclosures and prohibited misrepresentations, may create some incentive for unscrupulous sellers to market these programs via general media advertising specifically to ensure that their efforts are exempt from the Rule's coverage. Therefore, sellers and telemarketers who market these goods and services would be required to abide by the Rule regardless of the medium used to advertise their products and services.

Section 310.6(f)—Direct Mail Exemption

Section 310.6(f) exempts from the Rule's requirements inbound telephone calls resulting from a direct mail solicitation that clearly, conspicuously, and truthfully discloses all material information required by § 310.3(a)(1). The proposed Rule adds language clarifying that the Commission considers advertisements sent via facsimile machine or electronic mail to be forms of direct mail.

In addition, the proposed Rule extends this exemption to inbound telephone calls resulting from direct mail charitable fundraising solicitations that comply with § 310.3(a)(1), and which would otherwise be subject to the Rule pursuant to the modifications mandated by the USA PATRIOT Act amendments.

Commenters suggested that advertisements sent by facsimile machine or electronic mail should be included as categories of direct mail, and therefore be exempt from the Rule's coverage as long as they make the required disclosures required by § 310.3(a)(1) in a clear, conspicuous, and truthful manner.[389] The Commission believes that facsimile and electronic mail advertisements are analogous to traditional direct mail sent through the United States Postal Service or private mail services, such as United Postal Service or Federal Express. Indeed, the Commission has brought law enforcement actions under the Rule against fraudulent telemarketers who used facsimiles or electronic mail to solicit inbound calls.[390] Therefore, the Commission proposes to modify § 310.6(f) to clarify that direct mail solicitations include ''solicitations via the U.S. Postal Service, facsimiles, electronic mail, and other similar methods'' of delivery which directly target potential customers or donors.

The original Rule removed prize promotions, investment opportunities, credit repair services, ''recovery'' services, and advance fee loan offers from the direct mail exemption. In addition to these, the proposed Rule, for reasons similar to those cited with respect to the modification to the general media exemption, § 310.6(e), also removes from the direct mail exemption both credit card loss protection plans as well as business opportunities other than business arrangements covered by the Franchise Rule or any subsequent Rule covering business opportunities the Commission may promulgate.

Section 310.6(g)—Business-to-Business Exemption

Section 310.6(g) of the original Rule exempts most business-to-business telemarketing from the Rule's requirements; only the sale of nondurable office and cleaning supplies are covered under the Rule. In addition to these, the proposed Rule also makes this exemption unavailable to telemarketers of Internet services or Web services, and telemarketers' solicitations for charitable contributions.

ERA praised the business-to-business exemption, noting that in business-to-business transactions, telemarketers are selling to ''uniquely sophisticated'' purchasers who are skilled in evaluating and negotiating competing offers.[391] ERA also noted that business purchasers would ''find a seller's rote adherence to the requirements of the TSR annoying and disruptive to ordinary business negotiations.''[392]

State and local law enforcement officials were less enthusiastic about this Rule exemption, particularly as it relates to small businesses.[393] Participants at the July Forum also noted that small businesses are increasingly the targets of fraudulent telemarketing schemes.[394] Some critics recommended abolishing the business-to-business exemption, while others recommended removing additional products and services from the exemption.[395]

The Commission believes a business-to-business exemption continues to be appropriate. However, the Commission also is cognizant of the increasing emergence of fraudulent telemarketing scams that target businesses, particularly small businesses, for certain kinds of fraud.[396] The Commission receives a high number of complaints about such business-to-business telemarketing frauds,[397] and has brought numerous law enforcement actions against them, both under the Rule and section 5 of the FTC Act.[398] Currently, the Rule makes the business-to-business exemption unavailable to telemarketers of nondurable office or cleaning supplies. The sale of Internet and Web services to small businesses has emerged as one of the leading sources of complaints about fraud by small businesses.[399] The proliferation of sellers of these services has increased dramatically as Internet use has skyrocketed over the past five years.[400]

[387] *See, e.g., FTC* v. *Advanced Public Communications Corp.,* 00–00515 (S.D. Fla. filed Feb. 7, 2000); *FTC* v. *MegaKing,* No.00–00513 (S.D. Fla. filed Feb. 7, 2000); and *FTC* v. *Home Professions, Inc.,* SACV 00–111 AHS(EEx) (C.D. Cal. filed Feb. 1, 2000).

[388] *See also,* the discussion above regarding

[390] *See, e.g., FTC* v. *Leisure Time Mktg, Inc.,* No. 6:00–Civ–1057–ORL–19–B, (M.D. Fla. filed Aug. 14, 2000).

[391] ERA at 5.

[392] *Id.*

[393] *See, e.g.,* NAAG at 16–17; NACAA at 2; Texas at 2–3.

[394] *See generally* Rule Tr. at 250–272.

[395] *See* NAAG at 17 (recommending that the exemption be eliminated when telemarketing calls are made to small businesses, or, in the alternative, that the exception be broadened to include the sale of Internet and Web services); NACAA at 2 (recommending that calls to small businesses be covered by the Rule); Texas at 2–3.

[396] Rule Tr. at 252–253 (NAAG noting that businesses are ''the consumers of choice for fraudulent telemarketers of the 21st century'').

[397] *See E-Commerce Fraud Targeted at Small Business: Hearings on Web Site Cramming Before the Senate Comm. on Small Bus.* (Oct. 25, 1999) (statement of Jodie Bernstein, Director of the Bureau of Consumer Protection, FTC); *FTC Cracks Down on Small Business Scams: Internet Cramming is Costing Companies Millions,* FTC news release, June 17, 1999, available online at: *www.ftc.gov/opa/1999/small9.htm.*

[398] *See, e.g., FTC* v. *Shared Network Svcs. LLC.,* Case No. S–99–1087–WBS JFM, (E.D. Cal. filed June 12, 2000); *FTC* v. *U.S. Republic Communications, Inc.,* Case No. H–99–3657, S.D. Tex. (Oct. 21, 1999) (Stipulated Final Order for Permanent Injunction and Other Equitable Relief entered on Oct. 25, 1999); *FTC* v. *WebViper LLC d/b/a Yellow Web Services,* Case No. 99–T–589–N, (M.D. Ala. June 9, 1999); FTC v. Wazzu Corp., Case No. SA CV–99–762 AHS (ANx), (C.D. Cal. filed June 7, 1999).

[399] *See* NAAG at 16–17; Rule Tr. 250–253, 266, 269–270.

[400] *See, e.g., www.media-awareness.ca/eng/issues/stats/usenet.htm* (''In 1997, electronic commerce transactions around the world totalled [sic] about $4 billion. By 2002, that figure is expected to jump to $400 billion.'') (''Over 83

Continued

Small businesses have proven eager to join the online revolution, but often are unable to distinguish between offers from legitimate sellers and those extended by fraud artists. Therefore, the proposed Rule also makes the business-to-business exemption unavailable to telemarketers of Internet services and Web services. The Commission believes that this will strengthen the tools available to law enforcement to stop these schemes from proliferating.

Similarly, the Commission's enforcement experience compels the conclusion that charity fraud targeting businesses is a widespread problem, and that small businesses in particular need the TSR's protection from charity fraud.[401] The Commission believes it consistent with the plain language and the legislative history of the USA PATRIOT Act amendments that the TSR should reach this problem.

Other Recommendations by Commenters Regarding Exemptions

Preneed Funeral Goods and Services. FAMSA recommended that the face-to-face exemption not be available to sellers and telemarketers of preneed funeral and cemetery sales. According to FAMSA, Rule coverage is appropriate here because abuses occur when aggressive telemarketing techniques are used to sell funeral goods and services to individuals who are particularly vulnerable because they are grieving the loss of a loved one.[402] The Commission recognizes that these individuals are a particularly vulnerable group and are deserving of protection. However, the Commission believes that the sale of preneed funeral good and services would be more appropriately addressed in the Funeral Rule, which is currently under review by the Commission.[403]

Isolated transactions. DSA proposed modifying the definition of ''telemarketing'' to state that it involves more than one telephone in order to emphasize the ''plan, program, or campaign'' element of the definition.[404] DSA stated that most of the phone calls made by direct sellers are made using the seller's home telephone line to call someone known to the seller, someone referred to the seller by a current customer, or to invite potential guests to a direct selling party.[405] DSA argued that these types of sellers should be distinguished from telemarketers who use boiler rooms to market their goods and services.

As explained, above, in the section discussing § 310.2 of the Rule, the Rule's definition of ''telemarketing'' tracks the statutory definition in the Telemarketing Act.[406] Thus, for purposes of the Rule, telemarketing ''means a plan, program, or campaign which is conducted to induce the purchase of goods or services by use of *one or more telephones* and which involves more than one interstate telephone call.''[407] Fraudulent telemarketing practices are not limited to boiler room operations. A series of telephone calls by one seller to several consumers would constitute telemarketing if those telephone calls are to induce the purchase of goods or services. Such a situation is as susceptible to fraud as is a boiler room or call center situation. Altering the definition to exclude telemarketers who use only their own phone to solicit customers would unnecessarily limit the scope of the Rule, and provide a potential loophole for fraudulent telemarketers. Individual telemarketers or sellers can engage in fraud regardless of the number of telephones they may use.

DSA also recommended exempting telephone calls where ''the solicitation is an isolated transaction and not done in the course of pattern or repeated transactions of like nature.''[408] An isolated transaction would not constitute ''a plan, program, or campaign'' and thus would not be subject to the Rule's provisions. The Rule already exempts isolated transactions through its definition of ''telemarketing'' and, therefore, the Commission does not believe it is necessary to amend the Rule to clarify that exclusion.

Prior business or personal relationship. DSA also proposed exempting ''telephone calls made to any person with whom the caller has a prior or established business or personal relationship.'' In advocating for this exemption, DSA noted that most of the phone calls made by direct sellers are to call someone known to the seller, someone referred to the seller by a current customer, or to invite potential guests to a direct selling party.[409] In the original rulemaking, the Commission declined to add an exemption for telephone calls made to a consumer with whom a business had a prior business relationship because it determined that such an exemption would be unworkable in the context of telemarketing fraud.[410] A prior business relationship exemption would enable fraudulent telemarketers who were able to fraudulently make an initial sale to a customer to continue to exploit that customer without being subject to the Rule.[411] The Commission continues to believe that such an exemption would work to the disadvantage of consumers, and thus declines to accept this recommendation.

G. Section 310.7—Actions by States and Private Persons

The Telemarketing Act grants the States and private persons the authority to enforce the TSR.[412] Section 310.7 details the procedures the States and private persons should follow in bringing actions under the Rule in order to maximize the impact of law enforcement actions by promoting consistency and coordination of effort. The language in this provision tracks the language of the sections of the Telemarketing Act that provide for enforcement of the TSR by the States and private persons. The Commission received no comments recommending changes to this section. Therefore, no change to § 310.7 is proposed.

Although there were no comments specifically on this section, representatives from industry, consumer groups, and State law enforcement praised the dual enforcement scheme that Congress set up in the Telemarketing Act. For example, MPA noted that fraudulent telemarketers' pattern of ''run(ning) from state to state to avoid prosecution'' has been stymied because under the Rule individual States can obtain nationwide injunctions.[413] Other commenters also supported the Act's dual enforcement scheme, noting that one factor that has been particularly essential to the Rule's success in curbing telemarketing fraud is the increased enforcement made

million adults, or 40 percent of the US population over 16 are accessing the Internet, up from 66 million in 1998.); *www.thestandard.com/research/metrics/display/0,2799,10089,00.html.*

[401] *See, e.g., Southwest Marketing Concepts; Saja; Dean Thomas Corp.; Century Corp.; Image Sales & Consultants; Omni Advertising: T.E.M.M. Mktg., Inc.; Tristate Advertising Unlimited, Inc.; Fold; Eight Point Communications. See also* Pa. Stat. Ann. tit. 10 § 162.15(A)(11) (West 2000).

[402] FAMSA at 2.

[403] FTC, Funeral Rule, 16 CFR 453. On May 5, 1999, the Commission published a request for comment in its review of the Funeral Rule. 64 FR 24249 (May 5, 1999). The review is still pending.

[404] DSA at 3.

[405] *Id.* at 3–4, 6. DSA represents approximately 200 companies that sell their products and services by personal presentation and demonstration, primarily in the home. DSA at 3.

[406] 15 U.S.C. 6106(4).

[407] 16 CFR 310.2(u) (emphasis added).

[408] DSA at 3.

[409] DSA at 3–4.

[410] 60 FR at 30423.

[411] *Id.*

[412] 15 U.S.C. 6103 (States) and 6104 (private persons).

[413] MPA at 11.

possible by allowing States to initiate actions under the Rule.[414]

State law enforcement officials also expressed strong approval for the Act's enforcement scheme, focusing on the efficiencies that the Act has created in the use of law enforcement resources. These commenters noted that the Act's enforcement scheme allows States to work together, and with the Commission, to jointly sue fraudulent telemarketers in a single action.[415] The Commission's own experience confirms that the dual enforcement provision of the Act has been integral in attacking telemarketing fraud. Working together with States in ''sweeps'' targeted at specific types of telemarketing scams, such as those touting advance fee loans or travel promotions, the Commission and States have brought over one hundred fifty actions since the Rule took effect.[416]

In contrast, the Rule review record regarding the private right of action available under the Act for violations of the TSR indicates two sources of frustration: The $50,000 monetary harm threshold consumers must meet to be eligible to sue under the Act for violations of the TSR, and the difficulty in identifying those who violate the Rule, particularly when a consumer wishes to enforce those provisions of the Rule aimed not at fraud and deception, but at abusive practices.[417]

As to the threshold amount of monetary harm, the Telemarketing Act prescribed that the amount in controversy required for a private person to bring an action under the Rule be $50,000.[418] Congress, and not Commission, is vested with the authority to alter this amount. Any change in this amount would necessarily be made by Congress through an amendment to the Telemarketing Act.

The Commission agrees that the difficulty of identifying those who violate the Rule has been an impediment to effective enforcement of the Rule, not only by private parties, but by law enforcement as well. While § 310.4(d)(1) of the Rule already requires telemarketers to disclose the identity of the seller promptly in each call, the Commission is persuaded that the Rule should be supplemented to ensure that consumers receive this important information in additional ways, where feasible. As discussed in detail above in connection with the proposed changes to § 310.4(a), the Commission believes that the enforceability of the Rule will be bolstered by the Commission's proposal to prohibit as an abusive practice any action by a telemarketer to block the calling party's name and telephone number, thus ensuring that, when feasible, consumers receive information about the identity of telemarketers who call them. In addition, the Commission believes that enforcement will be enhanced by its proposal in § 310.4(b)(1)(ii) to prohibit telemarketers from denying or interfering in any way with the consumer's right to be placed on a ''do-not-call'' list.

IV. Invitation To Comment

All persons are hereby given notice of the opportunity to submit written data, views, facts, and arguments concerning the proposed changes to the Commission's Telemarketing Sales Rule. The Commission invites written comments to assist it in ascertaining the facts necessary to reach a determination as to whether to adopt as final the proposed changes to the Rule. Written comments must be submitted to the Office of the Secretary, Room 159, FTC, 600 Pennsylvania Avenue, NW., Washington, DC 20580, on or before March 29, 2002. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552) and Commission Rules of Practice, on normal business days between the hours of 9:00 a.m. and 5 p.m. at the Public Reference Section, Room 130, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580. The Commission will make this Notice and, to the extent possible, all papers or comments received in electronic form in response to this Notice available to the public through the Internet at the following address: *www.ftc.gov.*

V. Public Forum

The FTC staff will conduct a public forum on June 5, 6, and 7, 2002, to discuss the written comments received in response to this **Federal Register** Notice. The purpose of the forum is to afford Commission staff and interested parties a further opportunity to discuss issues raised by the proposal and in the comments; and, in particular, to examine publicly any areas of significant controversy or divergent opinions that are raised in the written comments. The forum is not intended to achieve a consensus among participants or between participants and Commission staff with respect to any issue raised in the comments. Commission staff will consider the views and suggestions made during the forum, in conjunction with the written comments, in formulating its final recommendation to the Commission regarding amendment of the Telemarketing Sales Rule.

Commission staff will select a limited number of parties from among those who submit written comments to represent the significant interests affected by the issues raised in the Notice. These parties will participate in an open discussion of the issues, including asking and answering questions based on their respective comments. In addition, the forum will be open to the general public. The discussion will be transcribed and the transcription placed on the public record.

To the extent possible, Commission staff will select parties to represent the following interests: telemarketers, list providers, direct marketers, local exchange carriers, consumer groups, federal and State law enforcement and regulatory authorities, and any other interests that Commission staff may identify and deem appropriate for representation.

Parties who represent the above-referenced interests will be selected on the basis of the following criteria:

1. The party submits a written comment during the comment period.

2. During the comment period the party notifies Commission staff of its interest in participating in the forum.

3. The party's participation would promote a balance of interests being represented at the forum.

4. The party's participation would promote the consideration and discussion of a variety of issues raised in this Notice.

5. The party has expertise in activities affected by the issues raised in this Notice.

6. The number of parties selected will not be so large as to inhibit effective discussion among them.

VI. Communications by Outside Parties to Commissioners or Their Advisors

Written communications and summaries or transcripts of oral communications respecting the merits of this proceeding from any outside party to any Commissioner or Commissioner's advisor will be placed on the public record. See 16 C.F.R. 1.26(b)(5).

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[414] *See, e.g.,* AARP at 2; ATA at 10; NACAA at 1; NCL at 3.

[415] NAAG at 1; Texas at 1.

[416] The vast majority of these targeted sweeps have been accompanied by a media advisory and public education campaign, making them an important tool in raising public awareness of particular types of telemarketing fraud.

[417] *See* Kelly (1) at 1; DNC Tr. at 103, 106.

[418] *See* 15 U.S.C. 6104(a).

VII. Paperwork Reduction Act

In this Notice of Proposed Rulemaking, the Commission proposes to alter some collection of information requirements contained in the TSR. As required by the Paperwork Reduction Act of 1995 (''PRA''), 44 U.S.C. 3501–3517, the Commission has submitted a copy of the proposed revisions and a Supporting Statement for Information Collection Provisions of the Telemarketing Sales Rule (''Clearance Submission'') to the Office of Management and Budget (''OMB'') for its review.

The proposed amendments to the Rule presented in this Notice of Proposed Rulemaking clarify some of the Rule's language, add and change some disclosure items, amend the ''do-not-call'' requirements, modify some of the current exemptions, and expand the Rule's coverage by mandate of the USA PATRIOT Act. Each of these proposals will impact different industry members differently and, depending on the particular industry member, may reduce, increase, or have no effect on compliance costs and burdens. Several proposals provide new disclosure requirements—some for industry members generally, some for telemarketers soliciting charitable contributions that are now subject to the Rule, and others only in certain specific circumstances. Other proposed amendments clarify existing provisions and should provide an overall benefit to affected respondents without increasing costs. These clarifications, however, do not affect the collections of information contained in the regulation and therefore will not be addressed here. Only those proposals that might change an information collection requirement are discussed below.

Estimated Total Additional Hour Burden: 392,000 hours (rounded to the nearest thousand)

A. *Additional Hour Burden for Non-PATRIOT Act proposals:* 247,500 burden hours.

The current total public disclosure and recordkeeping burden for collections of information under the Rule is 2,301,000 hours, as stated most recently in the Commission's immediately preceding clearance submission for the TSR,[419] which OMB approved on July 24, 2001 under OMB Control No. 3084–0097 (expiration date July 31, 2004). Consistent with that submission and earlier ones addressing the Rule's issuance and ensuing requests for OMB clearance, Commission staff estimates that approximately 40,000 industry members make approximately 9 billion calls per year, or 225,000 calls per year per company.

Staff also noted during previous clearance processes, however, that the direct mail exemption in section 310.6(f), which includes all required disclosures under the Rule, would result in about 9,000 firms choosing that marketing method, and thereby become exempt from the remaining TSR requirements. Staff also estimated that the total time expenditure for the 31,000 firms choosing marketing methods that require these oral disclosures was 7.75 million hours, but that, based on the assumption that no more than 25 percent of that time constitutes ''burden'' imposed solely by the Rule (as opposed to the normal business practices of most affected entities apart from the Rule's requirements),[420] the burden subtotal attributable to these basic disclosures is 1,937,500 hours.

The Commission received no comments or other evidence to contradict these estimates during either the initial rulemaking or its subsequent OMB submissions for renewed clearance; thus, Commission staff will continue to use them to conduct the instant analysis under the PRA.

(1) *Proposed amendment to the definition of ''outbound call''.* The Commission proposes modifying the Rule's definition of ''outbound telephone call'' to clarify the Rule's coverage of outbound calls, which includes not only a call initiated by a telemarketer, but also instances when a call: (1) Is transferred to a telemarketer other than the original one; or (2) involves a single telemarketer soliciting on behalf of more than one seller or telemarketer seeking a charitable contribution. Based on its law enforcement experience and the record in this Rule review, the Commission believes the majority of these two additional types of calls will occur after an inbound call by a customer. According to the DMA's year 2000 Statistical Fact Book, 28 percent of its survey respondents said they used inbound calling as a direct marketing method in 1999.

Based on the DMA data, and assuming broadly that these additional types of calls will occur solely via inbound calls by a customer, staff estimates that of the 40,000 industry members affected by the Rule generally, approximately 11,200 (28% × 40,000 members) of them may additionally be subject to the Rule under the new definition of ''outbound call.'' Of those members, staff conservatively estimates, based on its law enforcement experience and industry research, that approximately one-third of telemarketers' calls, or around 75,000 calls per year per firm, involve a suggested transfer or further solicitation by a single telemarketer on behalf of a second entity. Staff also estimates that of the calls in which a transfer is suggested to the consumer or in which a second solicitation is attempted, 60% will be successfully transferred or ''upsold'' (versus an estimated 40% response rate for traditional outbound calls). Assuming, as staff has in the past that sales occur in 6 percent of all calls, that it takes 7 seconds to make the required disclosures, and that these proposed revisions will impose a paperwork burden only about 25% of the time,[421] staff estimates that the proposed amendment to the definition of ''outbound call'' will yield an increase of 245,000 burden hours.

(2) *Changes to the Express Verifiable Authorization Provision.* The Commission has proposed no changes to the Rule's recordkeeping requirements per se. However, because of the proposed changes to the express verifiable authorization provision, § 310.3(a)(3), the § 310.5(a)(5) mandate that sellers and telemarketers keep all verifiable authorizations required to be provided or received under the Rule suggests that additional records must be retained. Nonetheless, as noted above in the discussion of the express verifiable authorization provision of the Rule, the Rule review record indicates that virtually all telemarketers already keep such records in the ordinary course of business. Thus, there should be minimal or no incremental recordkeeping burden resulting from the contemplated Rule changes.

The recordkeeping provision, however, now also applies to telemarketers soliciting charitable contributions, pursuant to the change in the definition of ''telemarketing'' made in the USA PATRIOT Act. Staff estimates that approximately 2,500 telemarketers are solely engaged in the solicitation of charitable contributions, and that no more than 2% of

[419] 66 Fed. Reg. 33,701 (June 25, 2001).

[420] OMB does not view as ''burden'' the time, effort, and financial resources necessary to comply with a collection of information that would normally be incurred by persons in the normal course of their activities to the extent that the activities are usual and customary. 5 CFR 1320.3(b)(2).

[421] *See, e.g,* 63 FR 40713 (1998), 66 FR 33701 (2001), in which the Commission assumed that sales occurred in 6 percent of all outbound calls, that it took 7 seconds to make the required disclosures, and that about 75% of affected entities already are making these discloures. *See also* 60 FR 32682 (1995).

telemarketers of goods or services also engage in such activities. Staff conservatively estimates that this provision will account for no more than one hour of recordkeeping burden per entity engaged solely in the solicitation of charitable contributions. Those entities conducting telemarketing campaigns in both sales and solicitations of charitable contributions are already subject to the Rule regarding their sales activities, and, to the extent that they are compliant with the Rule, already perform recordkeeping pursuant to it. Consequently, staff anticipates that incremental recordkeeping burden for those entities would be de minimis. Accordingly, the total increase in recordkeeping burden attributable to this provision is approximately 2,500 (2,500 telemarketers engaged solely in soliciting charitable contributions × 1 hour each for recordkeeping under the Rule).

(3) *Adoption of a national ''do-not-call'' registry.* As discussed with regard to § 310.4(b)(1)(iii), the Commission proposes to amend the original Rule to provide consumers the option of placing themselves on a national ''do-not-call'' registry, maintained by the Commission. Telemarketers would be required, at least monthly, to obtain the Commission's registry in order to update their own call lists, ensuring that consumers who have requested inclusion on the Commission's registry will be deleted from telemarketers' call lists. Staff believes that the incremental PRA effects would be minimal and, possibly, lead to reduced burden for telemarketers. Many affected entities, whether telemarketing for commercial or charitable organizations, already have in place procedures either for scrubbing their own lists (to the extent that they maintain such lists) or for inputting into their automatic dialing systems the numbers of persons who have requested not to be called. Moreover, it is possible that some states may partially rescind their own provisions with regard to interstate calls in favor of the instant proposed rule. The effect of such centralization would be to simplify the process for telemarketers as well as consumers and thereby reduce cumulative burden.

B. Additional Hour Burden for PATRIOT Act proposals: 144,375 burden hours.

As noted above, section 1011 of the USA PATRIOT Act amended the Telemarketing Act to extend the Act's coverage to solicitations for charitable contributions. Specifically, section 1011(b)(2) of the PATRIOT Act adds a new section to the Telemarketing Act mandating that the Commission include new requirements in the ''abusive telemarketing acts or practices'' provisions of the TSR. The proposed Rule, therefore, includes proposed § 310.4(e), which requires telemarketers soliciting on behalf of charitable organizations to make two oral disclosures in the course of the telephone solicitation.

Based on analysis of data from a sampling of states requiring registration of professional fundraisers, including telemarketers, staff conservatively estimates that there are approximately 2,500 telemarketing firms potentially subject to the proposed amendments of the Rule specific to the PATRIOT Act. Additionally, staff estimates that approximately 2% of the telemarketers currently subject to the Rule also solicit charitable contributions, and thus will now be subject to additional disclosure requirements. Thus, the total number of entities staff estimates will be affected by these additional requirements is approximately 3,300.

Proposed § 310.4(e) requires telemarketers soliciting charitable contributions to make two prompt and clear disclosures at the start of each call. This provision was drafted to mirror current § 310.4(d), which includes four required disclosures, and which staff previously estimated would take 7 seconds to make in the course of each telemarketing call. Given that there are half as many disclosures required of telemarketers under proposed § 310.4(e), staff estimates that these disclosures will take approximately 4 seconds per call. As with commercial telemarketing calls, staff's estimate anticipates that at least 60% of calls result in ''hang-ups'' before the telemarketer has the opportunity to make all of the required oral disclosures (resulting in, approximately, a 2-second call). Finally, as is the case with telemarketing of goods or services, the Commission believes that telemarketers already are making the required disclosures in the majority of telemarketing transactions subject to these provisions under the USA PATRIOT Act amendments. Accordingly, staff estimates that the proposed provision will yield an added PRA burden in only 25% of affected transactions. Applying these assumptions and estimates, staff concludes that the new disclosure requirements will result in an additional burden of 144,375 hours. ((225,000 calls/year × 60% hang-ups after 2 seconds) + (225,000 calls/year × 40% with 4-seconds full disclosure)) × 3,300 firms × 25% of them making these additional disclosures solely due to the Rule revisions.)

Thus, total estimated annual hour burden for the TSR will be 2,693,000 hours, including the effects of the proposed Rule changes.

Estimated Total Additional Cost Burden: $1,402,000 (rounded to the nearest thousand).

(1) *Non-PATRIOT Act proposals:* $882,000.

The current estimate of the cost to comply with the Rule's information collection requirements is $10,022,000.[422] With regard to its proposed additional disclosure requirements, the Commission recognizes, as it did during the initial rulemaking, that telemarketing firms may incur additional costs for telephone service, assuming that the firms spend more time on the telephone with customers given the proposed disclosure requirements. As noted above, staff estimates that the proposed amendment to the definition of ''outbound call'' will yield an increase of 245,000 burden hours. Assuming all calls to customers are long distance and a commercial calling rate of 6 cents per minute ($3.60 per hour), affected entities as a whole may incur up to $882,000 in associated telecommunications costs.

(2) *PATRIOT Act proposals:* $519,750.

The Commission recognizes that telemarketing firms now subject to the Rule after the PATRIOT Act amendments may incur additional costs for telephone service, assuming that the firms spend more time on the telephone with customers due to the proposed disclosure requirements specific to the solicitation of charitable contributions. As noted abvoe, staff estimates that the proposed amendments arising from this Act will result in 144,375 additional burden hours. Assuming all calls to customers are long distance and a commercial calling rate of 6 cents per minute ($3.60 per hour), affected entities as a whole may incur up to $519,750 in associated telecommunications costs.

Thus, total estimated annual cost burden for the TSR will be $11,424,000, including the effects of the proposed Rule changes.

Request for Comments

The Commission invites comment that will enable it to:

1. Evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility;

[422] *See* 66 FR at 33,702.

2. Evaluate the accuracy of the staff's estimates of the burdens of the proposed collections of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and validity of the information to be collected; and

4. Minimize the burden of the collections of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical or other technological collection techniques or other forms of information technology.

VIII. Regulatory Flexibility Act

The Regulatory Flexibility Act provides for analysis of the potential impact on small entities of rules proposed by federal agencies.[423] In publishing the originally proposed TSR, the Commission certified, subject to subsequent public comment, that the proposed Rule, if promulgated, would not have a significant economic impact on a substantial number of small entities.[424] After receiving public comment, the Commission determined that this projection was correct, and certified this fact to the Small Business Administration.[425] In issuing this Notice proposing amendments to the TSR, the Commission similarly certifies that these Rule amendments, if adopted, will not have a significant economic impact on a substantial number of small entities.[426]

In originally promulgating the TSR, which applied to sellers and telemarketers engaged in the interstate telemarketing of goods or services, the Commission recognized that the Rule might affect a substantial number of small entities. The amendments now proposed may also affect a substantial number of small entities. Nevertheless, the Commission believes that the proposed amendments—including expansion of the definition of ''outbound call,'' expansion of the scope of the express verifiable authorization provisions to cover additional payment methods, and the formulation of a national do-not-call registry—would not have a significant economic impact on such entities. As explained above in the discussion of each proposed amendment and the PRA analysis, the amendments proposed in this NPRM reflect changes to the existing Rule, intended to better effectuate the mandate of the Telemarketing Act. They would not have a significant economic impact on small entities because they reflect practices that already are being implemented or utilized by most telemarketing firms, are already required of them by state statutes, or impose a minimal burden on these entities.

In addition, the Commission believes that the amendments required by the USA PATRIOT Act, which apply to telemarketing firms conducting telemarketing campaigns on behalf of charitable organizations, are not likely to affect a substantial number of small entities. The Commission's understanding is that most such telemarketing firms are not small businesses. However, even if the amendments would affect a substantial number of small entities, the Commission believes that the proposed amendments will not have a significant economic impact upon such entities. The disclosure requirements proposed in the NPRM mirror the requirements already in effect regarding telemarketers of goods and services, and, in fact, are fewer in number, imposing even less burden on solicitors of charitable contributions under the proposed amendments. Moreover, as with the sale of goods or services, most telemarketers soliciting charitable contributions already are making such disclosures in the ordinary course of business, either voluntarily or pursuant to state statute. Similarly, the Commission tailored the recordkeeping requirements that would be applicable to these firms to be the least burdensome possible to effectuate the goals of the TSR. Also, the kinds of records that would be required by an amended TSR are kept by most firms in the ordinary course of business. Finally, the establishment of a national do-not-call registry will have no significant impact on such entities, since most are already subject to similar state-mandated do-not-call regulations.

However, to ensure that the agency is not overlooking any possible substantial economic impact, the Commission is requesting public comment on the effect of the proposed regulations on the costs to, profitability and competitiveness of, and employment in small entities. Subsequent to the receipt of public comments, the Commission will determine whether the preparation of a final regulatory flexibility analysis is warranted. Accordingly, based on available information, the Commission hereby certifies under the Regulatory Flexibility Act, 5 U.S.C. 605(b), that the proposed regulations will not have a significant economic impact on a substantial number of small entities. This Notice also serves as certification to the Small Business Administration of that determination.

IX. Questions for Comment on the Proposed Rule

The Commission seeks comment on various aspects of the proposed Rule. Without limiting the scope of issues on which it seeks comment, the Commission is particularly interested in receiving comments on the questions that follow. In responding to these questions, include detailed, factual supporting information whenever possible.

General Questions for Comment

Please provide comment, including relevant data, statistics, consumer complaint information, or any other evidence, on each different proposed change to the Rule. Regarding each proposed modification commented on, please include answers to the following questions:

(a) What is the effect (including any benefits and costs), if any, on consumers?

(b) What is the impact (including any benefits and costs), if any, on individual firms that must comply with the Rule?

(c) What is the impact (including any benefits and costs), if any, on industry?

(d) What changes, if any, should be made to the proposed Rule to minimize any cost to industry or consumers?

(e) How would each suggested change affect the benefits that might be provided by the proposed Rule to consumers or industry?

(f) How would the proposed Rule affect small business entities with respect to costs, profitability, competitiveness, and employment?

Questions on Proposed Specific Changes

In response to each of the following questions, please provide: (1) Detailed comment, including data, statistics, consumer complaint information and other evidence, regarding the problem referred to in the question; (2) comment as to whether the proposed changes do or do not provide an adequate solution to the problems they were intended to address, and why; and (3) suggestions for additional changes that might better maximize consumer protections or minimize the burden on industry.

A. Scope

1. Has the Internet affected the way telemarketing companies conduct business? If so, what has the effect been? What, if any, changes have occurred in telemarketing as a result of the Internet? Have consumers lost any protections against deceptive or abusive acts or

[423] U.S.C. 603–604.

[424] 60 FR at 8322.

[425] 60 FR at 43863.

[426] 5 U.S.C. 605(b).

practices in telemarketing as a result of this development?

2. Does the Rule's coverage of for-profit telemarketers working on behalf of sellers outside the FTC's jurisdiction affect the business relationships created between those telemarketers and those sellers? If so, how do these changes in business relationships affect consumer protections provided by the Rule?

3. Do the Commission's proposals to expand the scope of the TSR to cover solicitation of charitable contributions by for-profit telemarketers, but not by non-profit charitable organization, achieve the Congressional purpose of section 1011 of the USA PATRIOT Act? Has the Commission proposed all changes to the text necessary to effectuate that Act? Are all proposed changes consistent and workable? What are the relative costs and benefits of coverage of calls placed by for-profit telemarketers, but not by non-profit charitable organizations?

B. Definitions

1. Is the proposed definition of ''billing information'' broad enough to capture any information that can be used to bill a consumer for goods or services or a charitable contribution? Is the definition too broad?

2. Is the definition of ''caller identification services'' broad enough to capture all devices and services that now or may in the future provide a telephone subscriber with the name and telephone number of the calling party?

3. Is the definition of ''charitable contribution'' appropriate and sufficient to effectuate section 1011 of the USA PATRIOT Act? If not, how can it be improved upon? Are the exclusions of political clubs and certain religious organizations appropriate? Should there be other exclusions? If so, why and on what basis?

4. Is the proposed definition of ''donor'' appropriate and sufficient to effectuate section 1011 of the USA PATRIOT Act? What, if any, changes could be made to improve it?

5. Is the proposed definition of ''express verifiable authorization'' adequate? What, if any, changes could be made to improve it?

6. Does the proposed definition of ''Internet services'' accurately define the scope of Internet-related services offered to customers through telemarketing?

7. Is the proposed definition of ''outbound telephone call'' adequate to address up-selling situations where the call is transferred from one telemarketer to another? If not, why not? Is the definition adequate to address situations where a single telemarketer in the initial part of the call is selling on behalf of one seller, and subsequently during the call begins selling on behalf of another seller? If not, why not? What are the benefits to consumers and the burdens to telemarketers and sellers of this definition?

a. In what circumstances do telemarketers currently transfer a call from one telemarketer to another? In what circumstances does a single telemarketer start a call promoting the products or services of one seller, and subsequently during the call sells on behalf of one or more other sellers? What are the benefits of these practices? What abusive or deceptive practices are associated with them?

b. Should calls made by a customer directly to a telemarketer be treated differently from calls transferred to a telemarketer by another person? If so, what differences in treatment by the Rule are appropriate? If not, why not?

c. What would be the benefits to consumers of treating calls made by a customer directly to a telemarketer differently from calls transferred to a telemarketer by another person?

d. What burdens, if any, would treating a transferred telemarketing call the same as an outbound telemarketing call place on sellers and telemarketers?

e. How has the increased prevalence of up-selling since the Rule was promulgated affected telemarketing and the effectiveness of the Rule?

8. Is the proposed definition of ''Web services'' sufficiently broad to encompass the range of Internet-related services offered to consumers, particularly businesses, through telemarketing?

C. Deceptive Telemarketing Acts or Practices

1. The proposed Rule would prohibit misrepresentations regarding seven enumerated topics in connection with solicitations by telemarketers for charitable contributions. Is each of these prohibitions necessary? Is each sufficiently widespread to justify inclusion in the Rule? What are the relative costs to consumers and burdens to industry of prohibiting these practices? Are there changes that could be made to lessen the burdens without harming donors? Are there other widespread misrepresentations that the TSR should prohibit?

2. Under the Rule, if a seller will bill charges to a consumer's account at the end of a free trial period unless the consumer takes affirmative action to prevent that charge, that fact must be disclosed as a material restriction, limitation, or condition under § 310.3(a)(1)(ii). Does this provision adequately protect consumers against unanticipated and unauthorized charges associated with free trial offers? If not, what additional protections are needed? What benefits does this provision provide to consumers, sellers or telemarketers? What costs does this requirement impose on affected businesses?

3. Under the proposed Rule, sellers and telemarketers would no longer have the option of providing written confirmation as a method of express verifiable authorization. What are the costs and benefits to consumers and industry of eliminating this option of providing authorization?

4. The proposed Rule requires that any credit card loss protection plan must provide consumers with information about the consumers' potential liability under the Consumer Credit Protection Act. Does the proposed provision adequately address the problems associated with the sale of credit card loss protection plans?

a. What are the costs and benefits of this provision to industry? to consumers?

b. Does the proposed provision differentiate clearly between legitimate credit card registration plans and fraudulent credit cost loss protection plans? If not, how should the Rule be changed to accomplish this?

c. How should the disclosure be given? In writing? Orally? What costs would a writing requirement impose on industry? What, if any, benefits? What would be the costs and benefits to consumers?

5. What are the implications of the new Electronic Signature (''E-Sign'') law for telemarketing? Is the requirement that any signature be ''verifiable'' adequate to protect consumers? If not, what other protections are necessary?

6. What changes, if any, to the *scienter* requirement in the assisting and facilitating provision, § 310.3(b), would be appropriate to better ensure effective law enforcement?

7. What changes, if any, to the credit card laundering provision, § 310.3(c), would be appropriate to better ensure effective law enforcement? Is it appropriate for this provision to cover telemarketers engaged in the solicitation of charitable contributions?

D. Abusive Telemarketing Acts or Practices

1. In order to address the problems associated with preacquired account telemarketing, the proposed Rule prohibits a seller or telemarketer from receiving from any person other than the consumer or donor, or disclosing to any other person, a consumer's or donor's billing information. The only

circumstance in which the proposed Rule would allow receipt of a consumer's or donor's billing information from, or disclosure of the consumer's or donor's billing information to, another party is when the information is used to process a payment in a transaction where the consumer or donor has disclosed the billing information and authorized its use to process that payment.

a. How will this provision interplay with the requirements of the Gramm-Leach-Bliley Act?

b. Will this proposed change adequately address the problems resulting from preacquired account telemarketing? Will this action adequately protect consumers from being billed for unauthorized charges?

c. If not, what changes to the Rule would provide better protection to consumers?

d. What additional provisions, if any, should be included to protect customers from unauthorized billing?

e. What specific, quantifiable benefits to sellers or telemarketers result from preacquired account telemarketing?

f. Is extension of this provision to cover telemarketers soliciting on behalf of charitable organizations appropriate to effectuate the USA PATRIOT amendments to the Telemarketing Act? If not, why not?

2. How do the credit card chargeback rates and error rates for telemarketers that use preacquired billing information compare with the chargeback rates and error rates for telemarketers that do not use preacquired billing information?

3. The proposed Rule prohibits blocking or altering the transmission of caller identification (''Caller ID'') information, but allows altering the Caller ID information to provide the actual name of the seller or charitable organization and the seller's or charitable organization's customer or donor service number.

a. What costs would this provision impose on sellers? On charitable organizations? On telemarketers? Are these costs outweighed by the benefits the provision would confer on consumers and donors?

b. Have significant numbers of consumers used Caller ID information to contact sellers, telemarketers, or charitable organizations to make ''do-not-call'' requests?

c. What, if any, trends in telecommunications technology might permit the transmission of full Caller ID information when the caller is using a trunk line or PBX system?

d. How are telemarketing firms currently meeting the regulatory requirements in States that have passed legislation requiring the transmission of full caller identification information by telemarketers?

e. If Caller ID information is transmitted in a telemarketing call, should the information identify the seller (or charitable organization) or should it identify the telemarketer? Is it technologically feasible for the calling party to alter the information displayed by Caller ID so that the seller's name and customer service telephone number or the charitable organization's name and donor service number, are displayed rather than the telemarketer's name and the telephone number from which the call is being placed? If not currently feasible, is such substitution of the seller's or charitable organization's information for that of the telemarketer likely to become feasible in the future?

f. Would charitable organizations likely make use of the option to transmit Caller ID information that provides the charitable organization's name and a ''donor service'' number? What would be the costs and benefits to charitable organizations of doing this?

g. Would it be desirable for the Commission to propose a date in the future by which all telemarketers would be required to transmit Caller ID information? If so, what would be a reasonable date by which compliance could be required? If not, why not?

h. Does the proposed Rule provide adequate protection against misleading or deceptive information by allowing for alteration to provide beneficial information to consumers, *i.e.,* the actual name of the seller and the seller's customer service number, or the charitable organization and the charitable organization's donor service number? What would be the costs and benefits if the Rule were simply to prohibit any alteration of Caller ID information that is misleading? Should the proposed Rule make any exception to the prohibition on altering Caller ID information?

4. The proposed Rule would prohibit a seller, or a telemarketer acting on behalf of a seller or charitable organization, from denying or interfering with the consumer's right to be placed on a ''do-not-call'' list or registry. Is this proposed provision adequate to address the problem of telemarketers hanging up on consumers or otherwise erecting obstacles when the consumer attempts to assert his or her ''do-not-call'' rights? What alternatives exist that might provide greater protections?

5. The proposed Rule would establish a national ''do-not-call'' registry maintained by the Commission.

a. What expenses will sellers, and telemarketers acting on behalf of sellers or charitable organizations, incur in order to reconcile their call lists with a national registry on a regular basis? What changes, if any, to the proposed ''do-not-call'' scheme could reduce these expenses? Can the offsetting benefits to consumers of a national do-not-call scheme be quantified?

b. Is the restriction on selling, purchasing or using the ''do-not-call'' registry for any purposes except compliance with §§ 310.4(b)(1)(iii) adequate to protect consumers? Will this provision create burdens on industry that are difficult to anticipate or quantify? What restrictions, if any, should be placed on a person's ability to use or sell a ''do-not-call'' database to other persons who may use it other than for the purposes of complying with the Rule?

c. Would a list or database of telephone numbers of persons who do not wish to receive telemarketing calls have any value, other than for its intended purpose, for sellers and telemarketers?

d. How long should a telephone number remain on the central ''do-not-call'' registry? Should telephone numbers that have been included on the registry be deleted once they become reassigned to new consumers? Is it feasible for the Commission to accomplish this? If so, how? If not, should there be a ''safe harbor'' provision for telemarketers who call these reassigned numbers?

e. Who should be permitted to request that a telephone number be placed on the ''do-not-call'' registry? Should permission be limited to the line subscriber or should requests from the line subscriber's spouse be permitted? Should third parties be permitted to collect and forward requests to be put on the ''do-not-call'' registry? What procedures, if any, would be appropriate or necessary to verify in these situations that the line subscriber intends to be included on the ''do-not-call'' registry?

f. What security measures are appropriate and necessary to ensure that only those persons who wish to place their telephone numbers on the ''do-not-call'' registry can do so? What security measures are appropriate and necessary to ensure that access to the registry of numbers is used only for TSR compliance? What are the costs and benefits of these security measures?

g. Should consumers be able to verify that their numbers have been placed on the ''do-not-call'' registry? If so, what form should that verification take?

h. Should the ''do-not-call'' registry allow consumers to specify the days or time of day that they are willing to accept telemarketing calls? What are the costs and benefits of allowing such selective opt-out/opt-in?

i. Should the ''do-not-call'' registry be structured so that requests not to receive telemarketing calls to induce the purchase of goods and services are handled separately from requests not to receive calls soliciting charitable contributions?

j. Some states with centralized statewide ''do-not-call'' list programs charge telemarketers for access to the list to enable them to ''scrub'' their lists. In addition, some of these states charge consumers a fee for including their names and/or phone numbers on the statewide ''do-not-call'' list. Have these approaches to covering the cost of the state ''do-not-call'' list programs been effective? What have been the problems, if any, with these two approaches?''

6. What should be the interplay between the national ''do-not-call'' registry and centralized state ''do-not-call'' requirements? Would state requirements still be needed to reach intrastate telemarketing? Would the state requirements be pre-empted in whole or in part? If so, to what degree? Should state requirements be pre-empted only to the extent that the national ''do-not-call'' registry would provide more protection to consumers? Will the national do-not-call registry have greater reach than state requirements with numerous exceptions?

7. What procedures could ensure that telephone numbers placed on the ''do-not-call'' registry by consumers who subsequently change their numbers do not stay on the registry? Can information be obtained from the local exchange carriers or other telecommunications entities that would enable this to be done, and if so, how? If not, why not?

8. What procedures could be established to update numbers in the ''do-not-call'' registry when the area codes associated with those numbers change?

9. The proposed Rule would permit consumers or donors who have placed their names and/or telephone numbers on the central ''do-not-call'' registry to provide to specific sellers or charitable organizations express verifiable authorization to receive telemarketing calls from those sellers or telemarketers acting on behalf of those sellers or charitable organizations.

a. What are the costs and benefits of providing consumers or donors an option to agree to receiving calls from specific entities?

b. What are the costs and benefits to sellers and telemarketers of providing consumers and donors with this option? What expenses will sellers and telemarketers incur to ensure that they have the authorization of the consumer or donor to call? What, if any, expenses will they incur in reconciling these authorizations against the central registry?

c. How will this requirement affect those entities with which a consumer (or donor) has a preexisting business (or philanthropic) relationship (such as bookstores and the like)?

d. Does the proposed Rule's express verifiable authorization provision for agreeing to receive calls from specific sellers, or telemarketers acting on behalf of those sellers or on behalf of specific charitable organizations, provide sufficient protection to consumers?

e. Does the proposed Rule provide sufficient guidance to business on what information is sufficient to evidence a consumer's express verifiable authorization to opt in to receiving calls from a specific seller, or a telemarketer acting on behalf of that seller or on behalf of a specific charitable organization? Is there additional information that should be required in order to evidence the consumer's express verifiable authorization?

10. Is the Commission's position regarding the timing of disclosures in multiple purpose calls sufficiently clear? If not, what additional clarification is needed?

11. Is the fact that, in the Commission's view, telemarketers who abandon calls are violating § 310.4(d) sufficient to curtail abuses of this technology? Is there additional language that could be added to the Rule that would more effectively address this problem?

a. Should the Commission mandate a maximum setting for abandoned calls, and, if so, what should that setting be? How could such a limit be policed? What are the benefits and costs to consumers and to industry from such an approach?

b. Would it be feasible to limit the use of predictive dialers to only those telemarketers who are able to transmit Caller ID information, including a meaningful number that the consumer could use to return the call? Would providing consumers with this information alleviate the injury consumers are now sustaining as a result of predictive dialer practices? What would be the costs and burdens to sellers, charitable organizations, and telemarketers of such action?

c. Would it be beneficial to businesses and charitable organizations to allow them to play a tape-recorded message when the use of a predictive dialer results in a shortage of telemarketing agents available to take calls? What would be costs and benefits to consumers if such tape-recorded messages were permitted?

12. Proposed § 310.4(e) requires telemarketers soliciting charitable contributions to promptly, clearly and truthfully disclose that the purpose of the call is to solicit a charitable contribution and the identity of the charitable organization on behalf of which the call is being made.

a. Are the proposed disclosures sufficient to effectuate the purposes of the USA PATRIOT Act amendments?

b. Absent other disclosures, are donors likely to suffer an invasion of privacy or incur substantial unavoidable injury that is not outweighed by countervailing benefits? If so, what are these disclosures, and would they be permissible under leading First Amendment decisions, such as *Riley* v. *Nat'l Fed. of Blind?*

c. Should this provision of the TSR require disclosure of the mailing address of the charitable organization on behalf of which a telemarketer is soliciting a contribution? Should such disclosure be required only upon some triggering event, such as the donor's inquiry, or the donor's assent to contribute? What would be the costs to charitable organizations and telemarketers to require mailing address disclosure? What benefits to consumers would result from such a requirement?

13. The Commission is concerned about the misuse of personal information in connection with the use of prisoners as telemarketers.

a. To what extent does the telemarketing industry use inmate work programs? What are the costs and benefits of the use of prison-based telemarketing to industry? To charitable organizations? To the public? Is this a practice more appropriate to address at the federal level rather than through State legislatures or State regulatory agencies?

b. Are there alternatives to banning prison-based telemarketing that would provide adequate protection to the public against misuse of personal information and abusive telemarketing by prisoner-telemarketers? For example, are any monitoring systems available that would prevent abuses by prison-based telemarketers? If so, would the cost of these systems be prohibitively high for telemarketers? Would a disclosure requirement (*i.e.,* disclosure to the consumer that the caller is a

prisoner) provide adequate protection for consumers? Would a ban provide sufficient protection?

c. To what extent, if any, do charitable organizations make use of prison-based telemarketing?

E. Exemptions

1. What costs and burdens will be placed on industry by the proposed requirement that firms that are exempt from the Rule under §§ 310.6(a)—(c) comply with the requirements of §§ 310.4(a)(1) and (6) and §§ 310.4(b) and (c)? What benefits would this proposed change provide to consumers?

2. What are the costs and burdens imposed upon industry by the proposed modifications to the general media exemption? What benefits to the public will these proposed changes provide? Are there alternative proposals that would provide the necessary protection for consumers while minimizing the burden on industry? Are there additional products and services that should be excepted from the general media exemption? What benefits and burdens would accrue from excluding from the exemption any calls in response to general media advertisements where disclosures required by § 310.3(a)(1) were not made either in the advertisement or in the call?

3. What are the costs and burdens imposed upon industry by the proposed modifications to the direct mail exemption? What benefits to the public will these proposed changes provide? Are there alternative proposals that would provide the necessary protection for consumers while minimizing the burden on industry? Does the proposed Rule sufficiently clarify the types of mail transmission methods that will be considered ''direct mail'' for purposes of the Rule? Are there additional methods of solicitation that should be included within the term ''direct mail''?

4. What costs and burdens to industry will be imposed by the proposed modification to the business-to-business exemption? What benefits to the public will this proposed change provide? Are there alternative methods that would provide the necessary protections to the public while minimizing burdens on industry? Is it appropriate to exclude from the coverage of this exemption telemarketing calls made on behalf of charitable organizations? If not, why?

Questions Relating to the Paperwork Reduction Act

The Commission solicits comments on the reporting and disclosure requirements above to the extent that they constitute ''collections of information'' within the meaning of the PRA. The Commission requests comments that will enable it to:

1. Evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected, and;

4. Minimize the burden of the collections of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (*e.g.,* permitting electronic submission of responses).

X. Proposed Rule

List of Subjects in 16 CFR Part 310

Telemarketing, Trade practices.

Accordingly, it is proposed that part 310 of title 16 of the Code of Federal Regulations, be revised to read as follows:

PART 310—TELEMARKETING SALES RULE

Sec.

310.1 Scope of regulations in this part.
310.2 Definitions.
310.3 Deceptive telemarketing acts or practices
310.4 Abusive telemarketing acts or practices.
310.5 Recordkeeping requirements.
310.6 Exemptions.
310.7 Actions by States and private persons.
310.8 Severability.

Authority: 15 U.S.C. 6101–6108.

§ 310.1 Scope of regulations in this part.

This part implements the Telemarketing and Consumer Fraud and Abuse Prevention Act, 15 U.S.C. 6101–6108, as amended.

§ 310.2 Definitions.

(a) *Acquirer* means a business organization, financial institution, or an agent of a business organization or financial institution that has authority from an organization that operates or licenses a credit card system to authorize merchants to accept, transmit, or process payment by credit card through the credit card system for money, goods or services, or anything else of value.

(b) *Attorney General* means the chief legal officer of a State.

(c) *Billing information* means any data that provides access to a consumer's or donor's account, such as a credit card, checking, savings, share or similar account, utility bill, mortgage loan account or debit card.

(d) *Caller identification service* means a service that allows a telephone subscriber to have the telephone number, and, where available, name of the calling party transmitted contemporaneously with the telephone call, and displayed on a device in or connected to the subscriber's telephone.

(e) *Cardholder* means a person to whom a credit card is issued or who is authorized to use a credit card on behalf of or in addition to the person to whom the credit card is issued.

(f) *Charitable contribution* means any donation or gift of money or any other thing of value; provided, however, that such donations or gifts of money or any other thing of value solicited by or on behalf of the following shall be excluded from the definition of charitable contribution for the purposes of this Rule:

(1) Political clubs, committees, or parties; or

(2) Constituted religious organizations or groups affiliated with and forming an integral part of the organization where no part of the net income inures to the direct benefit of any individual, and which has received a declaration of current tax exempt status from the United States government.

(g) *Commission* means the Federal Trade Commission.

(h) *Credit* means the right granted by a creditor to a debtor to defer payment of debt or to incur debt and defer its payment.

(i) *Credit card* means any card, plate, coupon book, or other credit device existing for the purpose of obtaining money, property, labor, or services on credit.

(j) *Credit card sales draft* means any record or evidence of a credit card transaction.

(k) *Credit card system* means any method or procedure used to process credit card transactions involving credit cards issued or licensed by the operator of that system.

(l) *Customer* means any person who is or may be required to pay for goods or services offered through telemarketing.

(m) *Donor* means any person solicited to make a charitable contribution.

(n) *Express verifiable authorization* means the informed, explicit consent of a consumer or donor, which is capable of substantiation.

(o) *Internet services* means the provision, by an Internet Service Provider, or another, of access to the Internet.

(p) *Investment opportunity* means anything, tangible or intangible, that is offered, offered for sale, sold, or traded based wholly or in part on representations, either express or implied, about past, present, or future income, profit, or appreciation.

(q) *Material* means likely to affect a person's choice of, or conduct regarding,

(1) Goods or services; or

(2) A charitable contribution.

(r) *Merchant* means a person who is authorized under a written contract with an acquirer to honor or accept credit cards, or to transmit or process for payment credit card payments, for the purchase of goods or services or a charitable contribution.

(s) *Merchant agreement* means a written contract between a merchant and an acquirer to honor or accept credit cards, or to transmit or process for payment credit card payments, for the purchase of goods or services or a charitable contribution.

(t) *Outbound telephone call* means any telephone call to induce the purchase of goods or services or to solicit a charitable contribution, when such telephone call:

(1) Is initiated by a telemarketer;

(2) Is transferred to a telemarketer other than the original telemarketer; or

(3) Involves a single telemarketer soliciting on behalf of more than one seller or charitable organization.

(u) *Person* means any individual, group, unincorporated association, limited or general partnership, corporation, or other business entity.

(v) *Prize* means anything offered, or purportedly offered, and given, or purportedly given, to a person by chance. For purposes of this definition, chance exists if a person is guaranteed to receive an item and, at the time of the offer or purported offer, the telemarketer does not identify the specific item that the person will receive.

(w) *Prize promotion* means:

(1) A sweepstakes or other game of chance; or

(2) An oral or written express or implied representation that a person has won, has been selected to receive, or may be eligible to receive a prize or purported prize.

(x) *Seller* means any person who, in connection with a telemarketing transaction, provides, offers to provide, or arranges for others to provide goods or services to the customer in exchange for consideration.

(y) *State* means any State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, and any territory or possession of the United States.

(z) *Telemarketer* means any person who, in connection with telemarketing, initiates or receives telephone calls to or from a customer or donor.

(aa) *Telemarketing* means a plan, program, or campaign which is conducted to induce the purchase of goods or services or a charitable contribution, by use of one or more telephones and which involves more than one interstate telephone call. The term does not include the solicitation of sales through the mailing of a catalog which: Contains a written description or illustration of the goods or services offered for sale; includes the business address of the seller; includes multiple pages of written material or illustrations; and has been issued not less frequently than once a year, when the person making the solicitation does not solicit customers by telephone but only receives calls initiated by customers in response to the catalog and during those calls takes orders only without further solicitation. For purposes of the previous sentence, the term ''further solicitation'' does not include providing the customer with information about, or attempting to sell, any other item included in the same catalog which prompted the customer's call or in a substantially similar catalog.

(bb) *Web services* means designing, building, creating, publishing, maintaining, providing or hosting a website on the Internet.

§ 310.3 Deceptive telemarketing acts or practices.

(a) *Prohibited deceptive telemarketing acts or practices.* It is a deceptive telemarketing act or practice and a violation of this Rule for any seller or telemarketer to engage in the following conduct:

(1) Before a customer pays [1] for goods or services offered, failing to disclose truthfully, in a clear and conspicuous manner, the following material information:

(i) The total costs to purchase, receive, or use, and the quantity of, any goods or services that are the subject of the sales offer; [2]

(ii) All material restrictions, limitations, or conditions to purchase, receive, or use the goods or services that are the subject of the sales offer;

(iii) If the seller has a policy of not making refunds, cancellations, exchanges, or repurchases, a statement informing the customer that this is the seller's policy; or, if the seller or telemarketer makes a representation about a refund, cancellation, exchange, or repurchase policy, a statement of all material terms and conditions of such policy;

(iv) In any prize promotion, the odds of being able to receive the prize, and, if the odds are not calculable in advance, the factors used in calculating the odds; that no purchase or payment is required to win a prize or to participate in a prize promotion and that any purchase or payment will not increase the person's chances of winning; and the no purchase/no payment method of participating in the prize promotion with either instructions on how to participate or an address or local or toll-free telephone number to which customers may write or call for information on how to participate;

(v) All material costs or conditions to receive or redeem a prize that is the subject of the prize promotion;

(vi) In the sale of any goods or services represented to protect, insure, or otherwise limit a customer's liability in the event of unauthorized use of the customer's credit card, the limits on a cardholder's liability for unauthorized use of a credit card pursuant to 15 U.S.C. 1643;

(2) Misrepresenting, directly or by implication, in the sale of goods or services any of the following material information:

(i) The total costs to purchase, receive, or use, and the quantity of, any goods or services that are the subject of a sales offer;

(ii) Any material restriction, limitation, or condition to purchase, receive, or use goods or services that are the subject of a sales offer;

(iii) Any material aspect of the performance, efficacy, nature, or central characteristics of goods or services that are the subject of a sales offer;

(iv) Any material aspect of the nature or terms of the seller's refund, cancellation, exchange, or repurchase policies;

(v) Any material aspect of a prize promotion including, but not limited to, the odds of being able to receive a prize, the nature or value of a prize, or that a purchase or payment is required to win a prize or to participate in a prize promotion;

[1] When a seller or telemarketer uses, or directs a customer to use, a courier to transport payment, the seller or telemarketer must make the disclosures required by § 310.3(a)(1) before sending a courier to pick up payment or authorization for payment, or directing a customer to have a courier pick up payment or authorization for payment.

[2] For offers of consumer credit products subject to the Truth in Lending Act, 15 U.S.C. 1601 *et seq.*, and Regulation Z, 12 CFR 226, compliance with the disclosure requirements under the Truth in Lending Act, and Regulation Z, shall constitute compliance with § 310.3(a)(1)(i) of this Rule.

(vi) Any material aspect of an investment opportunity including, but not limited to, risk, liquidity, earnings potential, or profitability;

(vii) A seller's or telemarketer's affiliation with, or endorsement or sponsorship by, any person or government entity; or

(viii) That any customer needs offered goods or services to provide protections a customer already has pursuant to 15 U.S.C. 1643;

(3) Submitting billing information for payment, or collecting or attempting to collect payment for goods or services or a charitable contribution, directly or indirectly, without the customer's or donor's express verifiable authorization when the method of payment used to collect payment does not impose a limitation on the customer's or donor's liability for unauthorized charges nor provide for dispute resolution procedures pursuant to, or comparable to those available under, the Fair Credit Billing Act and the Truth in Lending Act, as amended. Such authorization shall be deemed verifiable if either of the following means are employed:

(i) Express written authorization by the customer or donor, which includes the customer's or donor's signature; [3] or

(ii) Express oral authorization which is recorded and made available upon request to the customer or donor, and the customer's or donor's bank, credit card company or other billing entity, and which evidences clearly both the customer's or donor's authorization of payment for the goods and services that are the subject of the sales offer and the customer's or donor's receipt of all of the following information:

(A) The number of debits, charges or payments;

(B) The date of the debit(s), charge(s), or payment(s);

(C) The amount of the debit(s), charge(s), or payment(s);

(D) The customer's or donor's name;

(E) The customer's or donor's specific billing information, including the name of the account and the account number, that will be used to collect payment for the goods or services that are the subject of the sales offer;

(F) A telephone number for customer or donor inquiry that is answered during normal business hours; and

(G) The date of the customer's or donor's oral authorization;

(4) Making a false or misleading statement to induce any person to pay for goods or services or to induce a charitable contribution; or

(b) *Assisting and facilitating.* It is a deceptive telemarketing act or practice and a violation of this Rule for a person to provide substantial assistance or support to any seller or telemarketer when that person knows or consciously avoids knowing that the seller or telemarketer is engaged in any act or practice that violates §§ 310.3(a) or (c), or § 310.4.

(c) *Credit card laundering.* Except as expressly permitted by the applicable credit card system, it is a deceptive telemarketing act or practice and a violation of this Rule for:

(1) A merchant to present to or deposit into, or cause another to present to or deposit into, the credit card system for payment, a credit card sales draft generated by a telemarketing transaction that is not the result of a telemarketing credit card transaction between the cardholder and the merchant;

(2) Any person to employ, solicit, or otherwise cause a merchant or an employee, representative, or agent of the merchant, to present to or deposit into the credit card system for payment, a credit card sales draft generated by a telemarketing transaction that is not the result of a telemarketing credit card transaction between the cardholder and the merchant; or

(3) Any person to obtain access to the credit card system through the use of a business relationship or an affiliation with a merchant, when such access is not authorized by the merchant agreement or the applicable credit card system.

(d) *Prohibited deceptive acts or practices in the solicitation of charitable contributions, donations, or gifts.* It is a fraudulent charitable solicitation, a deceptive telemarketing act or practice and a violation of this Rule for any telemarketer soliciting charitable contributions to misrepresent, directly or by implication, any of the following material information:

(1) The nature, purpose, or mission of any entity on behalf of which a charitable contribution is being requested;

(2) That any charitable contribution is tax deductible in whole or in part;

(3) The purpose for which any charitable contribution will be used;

(4) The percentage or amount of any charitable contribution that will go to a charitable organization or to any particular charitable program after any administrative or fundraising expenses are deducted;

(5) Any material aspect of a prize promotion including, but not limited to: The odds of being able to receive a prize; the nature or value of a prize; or that a charitable contribution is required to win a prize or to participate in a prize promotion;

(6) In connection with the sale of advertising: The purpose for which the proceeds from the sale of advertising will be used; that a purchase of advertising has been authorized or approved by any donor; that any donor owes payment for advertising; or the geographic area in which the advertising will be distributed; or

(7) A seller's or telemarketer's affiliation with, or endorsement or sponsorship by, any person or government entity.

§ 310.4 Abusive telemarketing acts or practices.

(a) *Abusive conduct generally.* It is an abusive telemarketing act or practice and a violation of this Rule for any seller or telemarketer to engage in the following conduct:

(1) Threats, intimidation, or the use of profane or obscene language;

(2) Requesting or receiving payment of any fee or consideration for goods or services represented to remove derogatory information from, or improve, a person's credit history, credit record, or credit rating until:

(i) The time frame in which the seller has represented all of the goods or services will be provided to that person has expired; and

(ii) The seller has provided the person with documentation in the form of a consumer report from a consumer reporting agency demonstrating that the promised results have been achieved, such report having been issued more than six months after the results were achieved. Nothing in this Rule should be construed to affect the requirement in the Fair Credit Reporting Act, 15 U.S.C. 1681, that a consumer report may only be obtained for a specified permissible purpose;

(3) Requesting or receiving payment of any fee or consideration from a person, for goods or services represented to recover or otherwise assist in the return of money or any other item of value paid for by, or promised to, that person in a previous telemarketing transaction, until seven (7) business days after such money or other item is delivered to that person. This provision shall not apply to goods or services provided to a person by a licensed attorney;

(4) Requesting or receiving payment of any fee or consideration in advance of obtaining a loan or other extension of credit when the seller or telemarketer has guaranteed or represented a high likelihood of success in obtaining or

[3] For purposes of this Rule, the term ''signature'' shall include a verifiable electronic or digital form of signature, to the extent that such form of signature is recognized as a valid signature under applicable federal law or state contract law.

arranging a loan or other extension of credit for a person;

(5) Receiving from any person other than the consumer or donor for use in telemarketing any consumer's or donor's billing information, or disclosing any consumer's or donor's billing information to any person for use in telemarketing; provided, however, this paragraph does not apply to the transfer of a consumer's or donor's billing information to process a payment for goods or services or a charitable contribution pursuant to a transaction in which the consumer or donor has disclosed his or her billing information and has authorized the use of such billing information to process such payment for goods or services or a charitable contribution.

(6) Blocking, circumventing, or altering the transmission of, or directing another person to block, circumvent, or alter the transmission of, the name and/or telephone number of the calling party for caller identification service purposes; provided that it shall not be a violation to substitute the actual name of the seller or charitable organization and the customer or donor service telephone number of the seller or charitable organization which is answered during regular business hours, for the phone number used in making the call.

(b) *Pattern of calls.*

(1) It is an abusive telemarketing act or practice and a violation of this Rule for a telemarketer to engage in, or for a seller to cause a telemarketer to engage in, the following conduct:

(i) Causing any telephone to ring, or engaging any person in telephone conversation, repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number;

(ii) Denying or interfering in any way, directly or through an intermediary, or directing another person to deny or interfere in any way, with a person's right to be placed on any registry of names and/or telephone numbers of persons who do not wish to receive outbound telephone calls established to comply with § 310.4(b)(1)(iii); or

(iii) Initiating any outbound telephone call to a person when that person previously has:

(A) Stated that he or she does not wish to receive an outbound telephone call made by or on behalf of the seller whose goods or services are being offered or the charitable organization on whose behalf a charitable contribution is being requested; or

(B) Placed his or her name and/or telephone number on a do-not-call registry, maintained by the Commission, of persons who do not wish to receive outbound telephone calls, unless the seller or charitable organization has obtained the express verifiable authorization of such person to place calls to that person. Such authorizations shall be deemed verifiable if either of the following means are employed:

(*1*) Express written authorization by the consumer or donor which clearly evidences his or her authorization that calls made by or on behalf of a specific seller or charitable organization may be placed to the consumer or donor, and which shall include the telephone number to which the calls may be placed and the signature of the consumer or donor; or

(*2*) Express oral authorization which is recorded and which clearly evidences the authorization of the consumer or donor that calls made by or on behalf of a specific seller or charitable organization may be placed to the consumer or donor; provided, however, that the recorded oral authorization shall only be deemed effective when the telemarketer receiving such authorization is able to verify that the authorization is being made from the telephone number to which the consumer or donor, as the case may be, is authorizing access.

(iv) Selling, purchasing or using a certified registry for any purposes except compliance with §§ 310.4(b)(1)(iii).

(2) A seller or telemarketer will not be liable for violating § 310.4(b)(1)(ii) and (iii) if it can demonstrate that, in the ordinary course of business:

(i) It has established and implemented written procedures to comply with § 310.4(b)(1)(ii) and (iii);

(ii) It has trained its personnel, and any entity assisting in its compliance, in the procedures established pursuant to § 310.4(b)(2)(i);

(iii) The seller or a telemarketer or another person acting on behalf of the seller or a charitable organization uses a process to prevent telemarketing calls from being placed to any telephone number included on the Commission's do-not-call registry, employing a version of the do-not-call registry obtained from the Commission not more than 30 days before the calls are made, and maintains records documenting this process;

(iv) The seller or a telemarketer or another person acting on behalf of the seller or charitable organization, has maintained and recorded lists of persons the seller or charitable organization may not contact, in compliance with § 310.4(b)(1)(iii)(A) and (B);

(v) The seller or a telemarketer or another person acting on behalf of the seller or charitable organization, has maintained and recorded the express verifiable authorization of those persons who have agreed to accept telemarketing calls by or on behalf of the seller or charitable organization, in compliance with § 310.4(b)(1)(iii)(B);

(vi) The seller or a telemarketer or another person acting on behalf of the seller or charitable organization, monitors and enforces compliance with the procedures established pursuant to § 310.4(b)(2)(i); and

(vii) Any subsequent call otherwise violating § 310.4(b)(1)(ii) or (iii) is the result of error.

(3) Within two years following the effective date of this Rule, the Commission shall review the implementation and operation of the registry established pursuant to § 310.4(b)(1)(iii)(B).

(c) *Calling time restrictions.* Without the prior consent of a person, it is an abusive telemarketing act or practice and a violation of this Rule for a telemarketer to engage in outbound telephone calls to a person's residence at any time other than between 8:00 a.m. and 9:00 p.m. local time at the called person's location.

(d) *Required oral disclosures in the sale of goods or services.* It is an abusive telemarketing act or practice and a violation of this Rule for a telemarketer in an outbound telephone call to induce the purchase of goods or services to fail to disclose truthfully, promptly, and in a clear and conspicuous manner to the person receiving the call, the following information:

(1) The identity of the seller;

(2) That the purpose of the call is to sell goods or services;

(3) The nature of the goods or services; and

(4) That no purchase or payment is necessary to be able to win a prize or participate in a prize promotion if a prize promotion is offered and that any purchase or payment will not increase the person's chances of winning. This disclosure must be made before or in conjunction with the description of the prize to the person called. If requested by that person, the telemarketer must disclose the no-purchase/no-payment entry method for the prize promotion.

(e) *Required oral disclosures in charitable solicitations.* It is an abusive telemarketing act or practice and a violation of this Rule for a telemarketer, in an outbound telephone call to induce a charitable contribution to fail to disclose truthfully, promptly, and in a clear and conspicuous manner to the person receiving the call, the following information:

(1) The identity of the charitable organization on behalf of which the request is being made; and

(2) That the purpose of the call is to solicit a charitable contribution;

§ 310.5 Recordkeeping requirements.

(a) Any seller or telemarketer shall keep, for a period of 24 months from the date the record is produced, the following records relating to its telemarketing activities:

(1) All substantially different advertising, brochures, telemarketing scripts, and promotional materials;

(2) The name and last known address of each prize recipient and the prize awarded for prizes that are represented, directly or by implication, to have a value of $25.00 or more;

(3) The name and last known address of each customer, the goods or services purchased, the date such goods or services were shipped or provided, and the amount paid by the customer for the goods or services; [4]

(4) The name, any fictitious name used, the last known home address and telephone number, and the job title(s) for all current and former employees directly involved in telephone sales or solicitations; provided, however, that if the seller or telemarketer permits fictitious names to be used by employees, each fictitious name must be traceable to only one specific employee; and

(5) All verifiable authorizations required to be provided or received under this Rule.

(b) A seller or telemarketer may keep the records required by § 310.5(a) in any form, and in the manner, format, or place as they keep such records in the ordinary course of business. Failure to keep all records required by § 310.5(a) shall be a violation of this Rule.

(c) The seller or the telemarketer calling on behalf of the seller or may, by written agreement, allocate responsibility between themselves for the recordkeeping required by this section. When a seller or a telemarketer have entered into such an agreement, the terms of that agreement shall govern, and the seller or telemarketer, as the case may be, need not keep records that duplicate those of the other. If the agreement is unclear as to who must maintain any required record(s), or if no such agreement exists, the seller shall be responsible for complying with §§ 310.5(a)(1)–(3) and (5); the telemarketer shall be responsible for complying with § 310.5(a)(4).

(d) In the event of any dissolution or termination of the seller's or telemarketer's business, the principal of that seller or telemarketer shall maintain all records as required under this section. In the event of any sale, assignment, or other change in ownership of the seller's or telemarketer's business, the successor business shall maintain all records required under this section.

§ 310.6 Exemptions.

The following acts or practices are exempt from this Rule:

(a) The sale of pay-per-call services subject to the Commission's ''Trade Regulation Rule Pursuant to the Telephone Disclosure and Dispute Resolution Act of 1992,'' 16 CFR Part 308, provided, however, that this exemption does not apply to the requirements of § 310.4(a)(1) and § 310.4(a)(6), (b), and (c);

(b) The sale of franchises subject to the Commission's Rule entitled ''Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures,'' 16 CFR Part 436, provided, however, that this exemption does not apply to the requirements of § 310.4(a)(1) and § 310.4(a)(6), (b), and (c);

(c) Telephone calls in which the sale of goods or services or charitable solicitation is not completed, and payment or authorization of payment is not required, until after a face-to-face sales presentation by the seller or charitable organization, provided, however, that this exemption does not apply to the requirements of § 310.4(a)(1) and § 310.4(a)(6), (b), and (c);

(d) Telephone calls initiated by a customer or donor that are not the result of any solicitation by a seller, charitable organization, or telemarketer;

(e) Telephone calls initiated by a customer or donor in response to an advertisement through any medium, other than direct mail solicitation; provided, however, that this exemption does not apply to calls initiated by a customer or donor in response to an advertisement relating to investment opportunities, business opportunities other than business arrangements covered by the Franchise Rule or any subsequent rule covering business opportunities the Commission may promulgate, or advertisements involving goods or services described in § 310.3(a)(1)(vi) or § 310.4(a)(2)–(4);

(f) Telephone calls initiated by a customer or donor in response to a direct mail solicitation, including solicitations via the U.S. Postal Service, facsimile transmission, electronic mail, and other similar methods of delivery in which a solicitation is directed to specific address(es) or person(s), that clearly, conspicuously, and truthfully disclose all material information listed in § 310.3(a)(1), for any goods or services offered in the direct mail solicitation or any requested charitable contribution; provided, however, that this exemption does not apply to calls initiated by a customer in response to a direct mail solicitation relating to prize promotions, investment opportunities, business opportunities other than business arrangements covered by the Franchise Rule or any subsequent rule covering business opportunities the Commission may promulgate, or goods or services described in §§ 310.4(a)(2)–(4); and

(g) Telephone calls between a telemarketer and any business, except calls to induce a charitable contribution, and those involving the sale of Internet services, Web services, or the retail sale of nondurable office or cleaning supplies; provided, however, that § 310.5 Rule shall not apply to sellers or telemarketers of nondurable office or cleaning supplies, Internet Services, or Web services.

§ 310.7 Actions by States and private persons.

(a) Any attorney general or other officer of a State authorized by the State to bring an action under the Telemarketing and Consumer Fraud and Abuse Prevention Act, and any private person who brings an action under that Act, shall serve written notice of its action on the Commission, if feasible, prior to its initiating an action under this rule. The notice shall be sent to the Office of the Director, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580, and shall include a copy of the State's or private person's complaint and any other pleadings to be filed with the court. If prior notice is not feasible, the State or private person shall serve the Commission with the required notice immediately upon instituting its action.

(b) Nothing contained in this section shall prohibit any attorney general or other authorized State official from proceeding in State court on the basis of an alleged violation of any civil or criminal statute of such State.

§ 310.8 Severability.

The provisions of this rule are separate and severable from one another. If any provision is stayed or determined to be invalid, it is the Commission's intention that the

[4] For offers of consumer credit products subject to the Truth in Lending Act, 15 U.S.C. 1601 *et seq.,* and Regulation Z, 12 CFR 226, compliance with the recordkeeping requirements under the Truth in Lending Act, and Regulation Z, shall constitute compliance with § 310.5(a)(3) of this Rule.

remaining provisions shall continue in effect.

By direction of the Commission.

Donald S. Clark,

Secretary.

Note: This Appendix is published for informational purposes only and will not be codified in Title 16 of the Code of Regulations.

Appendix A—List of Commenters and Acronyms, February 28, 2000: Notice and Comment; Telemarketing Sales Rule Review

Acronym/Commenter

AARP—AARP
Alan—Alan, Alicia
ARDA—American Resort Development Association
ATA—American Teleservices Association
Anderson—Anderson, Wayne
Baressi—Baressi, Sandy
Bell Atlantic—Bell Atlantic
Bennett—Bennett, Douglas H.
Biagiotti—Biagiotti, Mary
Bishop—Bishop, Lew & Lois
Blake—Blake, Ted
Bowman-Kruhm—Bowman-Kruhm, Mary
Braddick—Braddick, Jane Ann
Brass—Brass, Eric
Brosnahan—Brosnahan, Kevin
Budro—Budro, Edgar
Card—Card, Giles S.
Collison—Collison, Doug
Conn—Conn, David
Conway—Conway, Candace
Croushore—Croushore, Amanda
Curtis—Curtis, Joel
Dawson—Dawson, Darcy
DMA—Direct Marketing Association
DSA—Direct Selling Association
Doe—Doe, Jane
ERA—Electronic Retailing Association
FAMSA—FAMSA—Funeral Consumers Alliance, Inc.
Gannett—Gannett Co., Inc.
Garbin—Garbin, David and Linda
A. Gardner—Gardner, Anne
S. Gardner—Gardner, Stephen
Gibb—Gibb, Ronald E.
Gilchrist—Gilchrist, Dr. K. James
Gindin—Gindin, Jim
Haines—Haines, Charlotte
Harper—Harper, Greg
Heagy—Heagy, Annette M.
Hecht—Hecht, Jeff
Hickman—Hickman, Bill and Donna
Hollingsworth—Hollingsworth, Bob and Pat
Holloway—Holloway, Lynn S.
Holmay—Holmay, Kathleen
ICFA—International Cemetery and Funeral Association
Johnson—Johnson, Sharon Coleman
Jordan—Jordan, April
Kelly—Kelly, Lawrence M.
KTW—KTW Consulting Techniques, Inc.
Lamet—Lamet, Jerome S.
Lee—Lee, Rockie
LSAP—Legal Services Advocacy Project
LeQuang—LeQuang, Albert
Lesher—Lesher, David
Mack—Mack, Mr. and Mrs. Alfred
MPA—Magazine Publishers of America, Inc.
Manz—Manz, Matthias
McCurdy—McCurdy, Bridget E.
Menefee—Menefee, Marcie
Merritt—Merritt, Everett W.
Mey—Mey, Diana
Mitchelp—Mitchelp
NACHA—NACHA—The Electronic Payments Association
NAAG—National Association of Attorneys General
NACAA—National Association of Consumer Agency Administrators
NCL—National Consumers League
NFN—National Federation of Nonprofits
NAA—Newspaper Association of America
NASAA—North American Securities Administrators Association
Nova53—Nova53
Nurik—Nurik, Margy and Irv
PLP—Personal Legal Plans, Inc.
Peters—Peters, John and Frederickson, Constance
Reese—Reese Brothers, Inc.
Reynolds—Reynolds, Charles
Rothman—Rothman, Iris
Runnels—Runnels, Mike
Sanford—Sanford, Kanija
Schiber—Schiber, Bill
Schmied—Schmied, R. L.
Strang—Strang, Wayne G.
TeleSource—Morgan-Francis/Tele-Source Industries
Texas—Texas Attorney General
Thai—Thai, Linh Vien
Vanderburg—Vanderburg, Mary Lou
Ver Steegt—Ver Steegt, Karen
Verizon—Verizon Wireless
Warren—Warren, Joshua
Weltha—Weltha, Nick
Worsham—Worsham, Michael C., Esq.

Concurring Statement of Commissioner Orson Swindle in *Telemarketing Sales Rule Review,* File No. R411001

Telemarketing calls can provide consumers with valuable information about goods and services. On the other hand, telemarketing calls also can be deceptive or can be an unwanted intrusion into the homes of consumers—an intrusion that many consumers find difficult to prevent or remedy. The challenge for government, therefore, is to strike a balance that allows consumers, if they wish, to receive telemarketing calls with useful information without being deceived or abused.

In 1994, Congress passed the Telemarketing Consumer Fraud and Abuse Prevention Act (''Telemarketing Act''), giving the Commission the authority to promulgate rules to prohibit ''deceptive'' or ''abusive'' telemarketing practices. In 1995, the Commission issued the Telemarketing Sales Rule (''TSR''), which declared a number of telemarketing practices to be deceptive or abusive. In light of technological developments and changes in the marketplace since 1995 as well as our law enforcement experience with telemarketing fraud, the Commission now proposes to declare additional practices to be deceptive or abusive. I wholeheartedly support the proposed changes to the TSR, because they appear to strike the right balance by protecting consumers without unduly restricting the practices of legitimate telemarketers.

I want to emphasize two points concerning the Telemarketing Act and the TSR, however. The first point is that the Commission's regulatory scheme would be more effective if it covered the entire spectrum of entities engaged in telemarketing.[1] Under the Telemarketing Act and the TSR, however, the Commission lacks jurisdiction in whole or in part over the calls of entities such as banks, telephone companies, airlines, insurance companies, credit unions, charities,[2] political campaigns, and political fund raisers. In addition, the Commission also proposes to exempt from the TSR calls made on behalf of certain religious organizations.

A major objective of the Telemarketing Act and the TSR is to protect consumers' ''right to be let alone'' in their homes, which is the ''most comprehensive of rights and the right most valued by civilized men.'' *Olmstead* v. *U.S.,* 277 U.S. 438, 478 (1928) (Brandeis, J., dissenting). From the perspective of consumers, their right to be let alone is invaded just as much by an unwanted call from an exempt entity (*e.g.,* a bank or a telephone company) as it is by such a call from a covered entity (*e.g.,* a sporting goods manufacturer). The Commission's regulatory scheme would be more effective in protecting the right of consumers to be let alone if the Telemarketing Act and the TSR covered the entire spectrum of entities that make telemarketing calls to consumers.

Covering the entire spectrum of entities also would result in a more

[1] I have expressed concern in the past that the Commission's effectiveness in regualting telemarketing is significantly limited by our inability to reach the practices of entities that are exempt in whole or in part from the Telemarketing Act and the TSR. See Concurring Statement of Commissioner Orson Swindle in Miscellaneous Matters—Director (BCP), File No. P004101 (June 13, 2000) (statement issued in conjunction with Commission testimony on The Telemarketing Victims Protection Act (H.R. 3180) and The Know Your Caller Act (H.R. 3100), before the Subcommittee on Telecommunications, Trade and Consumer Protection of the Committee on Commerce, United States House of Representatives).

[2] As discussed in the Notice of Proposed Rulemaking, Congress recently enacted the USA PATRIOT Act of 2001, which gives the Commission new authority to regulate (under the Telemarketing Act and the TSR] for-profit companies that make telephone calls seeking charitable donations. I applaud Congress for taking this important step to protect consumers.

equitable regulatory scheme. For example, telephone companies currently are exempt in whole or in part from the Telemarketing Act and the TSR because they are common carriers, yet some vendors that compete with them apparently are not exempt from these regulatory requirements, *see* Notice of Proposed Rulemaking at 16, which may confer a competitive advantage in marketing on telephone companies. It would be more equitable if companies that compete with each other had to comply with the same regulatory requirements when they engage in telemarketing.

The second point that I want to raise concerns how the Commission determines whether a practice is ''abusive'' under the Telemarketing Act. For the most part, the Commission has used the examples of abusive practices that Congress provided in the Telemarketing Act and principles drawn from these examples to determine whether we can declare a practice to be abusive. I think that this is an appropriate means of determining the metes and bounds of abusive practices.

The Commission, however, also concludes that the transfer of pre-acquired account information and certain other telemarketing practices are ''abusive'' for purposes of the Telemarketing Act and the TSR, because they meet the Commission's standards for ''unfairness'' under section 5 of the FTC Act. The Commission's interjection of unfairness principles into the determination of which telemarketing practices are abusive is designed to provide greater certainty and to limit the scope of what will be considered abusive. Although these are laudable objectives, I have reservations about using unfairness principles under Section 5 to determine what is abusive for purposes of the Telemarketing Act. Nothing in the language of the Telemarketing Act or its legislative history indicates that Congress intended the Commission to use unfairness principles to determine which practices are abusive. Given that it amended the FTC Act to define unfairness the same year that it passed the Telemarketing Act, Congress presumably would have given some indication if it wanted us to employ unfairness principles to decide which telemarketing practices are abusive.[3]

Accordingly, I would ask for public comment addressing the legal, factual, and policy issues implicated by the use of unfairness principles under Section 5 of the FTC Act to determine whether telemarketing practices are abusive for purposes of the Telemarketing Act. I would also seek comment specifically addressing whether the transfer of pre-acquired account information meets the standard for unfairness under Section 5 of the FTC Act.

[FR Doc. 02–1998 Filed 1–29–02; 8:45 am]

BILLING CODE 6750–01–P

[3] In fact, when the Commission issued the TSR in 1995, it did not use unfairness principles to determine whether telemarketing practices are abusive under the Telemarketing Act. Statement of Basis and Purpose, Prohibition of Deceptive and Abusive Telemarketing Practices; Final Rule, 60 FR 43842 (Aug. 23, 1995).

Federal Register

Wednesday,
January 30, 2002

Part II

Federal Trade Commission

16 CFR Part 310
Telemarketing Sales Rule; Proposed Rule

FEDERAL TRADE COMMISSION

16 CFR Part 310

Telemarketing Sales Rule

AGENCY: Federal Trade Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: In this document, the Federal Trade Commission (the ''Commission'' or ''FTC'') issues a Notice of Proposed Rulemaking to amend the FTC's Telemarketing Sales Rule, and requests public comment on the proposed changes. The Telemarketing Sales Rule prohibits specific deceptive and abusive telemarketing acts or practices, requires disclosure of certain material information, requires express verifiable authorization for certain payment mechanisms, sets recordkeeping requirements, and specifies those transactions that are exempt from the Telemarketing Sales Rule.

This document invites written comments on all issues raised by the proposed changes and seeks answers to the specific questions set forth in Section IX of this document. This document also contains an invitation to participate in a public forum, to be held following the close of the comment period, to afford Commission staff and interested parties an opportunity to explore and discuss issues raised during the comment period.

DATES: Written comments will be accepted until March 29, 2002. Notification of interest in participating in the public forum also must be submitted on or before March 29, 2002. The public forum will be held at the Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580, on June 5, 6, and 7, 2002, from 9:00 a.m. until 5:00 p.m.

ADDRESSES: Six paper copies of each written comment should be submitted to the Office of the Secretary, Room 159, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580. To encourage prompt and efficient review and dissemination of the comments to the public, all comments should also be submitted, if possible, in electronic form, on either a 5¼ or a 3½ inch computer disk, with a label on the disk stating the name of the commenter and the name and version of the word processing program used to create the document. (Programs based on DOS are preferred. Files from other operating systems should be submitted in ASCII text format to be accepted.) Individual members of the public filing comments need not submit multiple copies or comments in electronic form.

Alternatively, the Commission will accept papers and comments submitted to the following email address: *tsr@ftc.gov,* provided the content of any papers or comments submitted by email is organized in sequentially numbered paragraphs. All comments and any electronic versions (*i.e.,* computer disks) should be identified as ''Telemarketing Rulemaking—Comment. FTC File No. R411001.'' The Commission will make this document and, to the extent possible, all papers and comments received in electronic form in response to this document available to the public through the Internet at the following address: *www.ftc.gov*.

Notification of interest in participating in the public forum should be submitted in writing, but separate from written comments, to Carole Danielson, Division of Marketing Practices, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580. The public forum will be held at the Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580.

Comments on proposed revisions bearing on the Paperwork Reduction Act should additionally be submitted to: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10102, Washington, DC 20503, ATTN.: Desk Officer for the Federal Trade Commission, as well as to the FTC Secretary at the address above.

FOR FURTHER INFORMATION CONTACT: Catherine Harrington-McBride, (202) 326–2452 (email: *cmcbride@ftc.gov*), Karen Leonard, (202) 326–3597 (email: *kleonard@ftc.gov*), Michael Goodman, (202) 326–3071 (email: *mgoodman@ftc.gov*), or Carole Danielson, (202) 326–3115 (email: *cdanielson@ftc.gov*), Division of Marketing Practices, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

I. Background

A. Telemarketing Consumer Fraud and Abuse Prevention Act

On August 16, 1994, President Clinton signed into law the Telemarketing Consumer Fraud and Abuse Prevention Act (''Telemarketing Act'' or ''the Act'').[1] The Telemarketing Act was the culmination of Congressional efforts during the early 1990's to protect consumers against telemarketing fraud.[2] The purpose of the Act was to combat telemarketing fraud by providing law enforcement agencies with powerful new tools, and to give consumers new protections. The Act directed the Commission, within 365 days of enactment of the Act, to issue a rule prohibiting deceptive and abusive telemarketing acts or practices.

The Telemarketing Act specified, among other things, certain acts or practices the FTC's rule must address. The Act also required the Commission to include provisions relating to three specific ''abusive telemarketing acts or practices:'' (1) A requirement that telemarketers may not undertake a pattern of ''unsolicited telephone calls which the reasonable consumer would consider coercive or abusive of such consumer's right to privacy;'' (2) restrictions on the time of day telemarketers may make unsolicited calls to consumers; and (3) a requirement that telemarketers promptly and clearly disclose in all sales calls to consumers that the purpose of the call is to sell goods or services, and make other disclosures deemed appropriate by the Commission, including the nature and price of the goods or services sold.[3] Section 6102(a) of the Act not only required the Commission to define and prohibit deceptive telemarketing acts or practices, but also authorized the FTC to define and prohibit acts or practices that ''assist or facilitate'' deceptive telemarketing.[4] The Act further directed the Commission to consider including recordkeeping requirements in the rule.[5] Finally, the Act authorized State attorneys general, other appropriate State officials, and private persons to bring civil actions in federal district court to enforce compliance with the FTC's rule.[6]

[1] 15 U.S.C. 6101–6108.

[2] Other statutes enacted by Congress to address telemarketing fraud during the early 1990's include the Telephone Consumer Protection Act of 1991 (''TCPA''), 47 U.S.C. 227 *et seq.*, which restricts the use of automatic dialers, bans the sending of unsolicited commercial facsimile transmissions, and directs the Federal Communications Commission (''FCC'') to explore ways to protect residential telephone subscribers' privacy rights; and the Senior Citizens Against Marketing Scams Act of 1994, 18 U.S.C. 2325 *et seq.*, which provides for enhanced prison sentences for certain telemarketing-related crimes.

[3] 15 U.S.C. 6102(a)(3)(A)–(C).

[4] Examples of practices that would ''assist or facilitate'' deceptive telemarketing under the Rule include credit card laundering and providing contact lists or promotional materials to fraudulent sellers or telemarketers. *See,* 60 FR 43843, 43853 (Aug. 23, 1995) (codified at 16 CFR part 310 (1995)).

[5] 15 U.S.C. 6102(a)(3).

[6] 15 U.S.C. 6103.

B. Telemarketing Sales Rule

Pursuant to the Telemarketing Act, the FTC adopted the Telemarketing Sales Rule, 16 CFR part 310, (''Telemarketing Rule,'' ''the Rule,'' ''TSR,'' or ''original Rule'') on August 16, 1995.[7] The Rule, which became effective on December 31, 1995, requires that telemarketers promptly tell each consumer they call several key pieces of information: (1) the identity of the seller; (2) the fact that the purpose of the call is to sell goods or services; (3) the nature of the goods or services being offered; and (4) in the case of prize promotions, that no purchase or payment is necessary to win.[8] Telemarketers must, in any telephone sales call, also disclose cost and other material information before consumers pay.[9] In addition, telemarketers must have consumers' express verifiable authorization before using a demand draft (or ''phone check'') to debit consumers'' bank accounts.[10] The Rule prohibits telemarketers from calling before 8:00 a.m. or after 9:00 p.m. (in the time zone where the consumer is located), and from calling consumers who have said they do not want to be called by or on behalf of a particular seller.[11] The Rule also prohibits misrepresentations about the cost, quantity, and other material aspects of the offered goods or services, and the terms and conditions of the offer.[12] Finally, the Rule bans telemarketers who offer to arrange loans, provide credit repair services, or recover money lost by a consumer in a prior telemarketing scam from seeking payment before rendering the promised services,[13] and prohibits credit card laundering and other forms of assisting and facilitating deceptive telemarketers.[14]

The Rule expressly exempts from its coverage several types of calls, including calls where the transaction is completed after a face-to-face sales presentation, calls subject to regulation under other FTC rules (*e.g.,* the Pay-Per-Call Rule, or the Franchise Rule),[15] calls that are not in response to any solicitation, calls initiated in response to direct mail, provided certain disclosures are made, and calls initiated in response to advertisements in general media, such as newspapers or television.[16] Lastly, catalog sales are exempt, as are most business-to-business calls, except those involving the sale of office or cleaning supplies.[17]

C. The USA PATRIOT Act of 2001

On Thursday, October 25, 2001, President Bush signed into law the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (''USA PATRIOT Act'') of 2001, Pub. L. 107–56 (Oct. 25, 2001). This legislation contains provisions that have significant impact on the TSR. Specifically, section 1011 of that Act amends the Telemarketing Act to extend the coverage of the TSR to reach not just telemarketing to induce the purchase of goods or services, but also charitable fund raising conducted by for-profit telemarketers for or on behalf of charitable organizations. Because enactment of the USA PATRIOT Act took place after the comment period for the Rule review (described below) closed, the Commission did not address issues relating to charitable fundraising by telemarketers in the Rule review.

Section 1011(b)(3) of the USA PATRIOT Act amends the definition of ''telemarketing'' that appears in the Telemarketing Act, 15 U.S.C. 6106(4), expanding it to cover any ''plan, program, or campaign which is conducted to induce * * * a charitable contribution, donation, or gift of money or any other thing of value, by use of one or more telephones and which involves more than one interstate telephone call * * *''

In addition, section 1011(b)(2) adds a new section to the Telemarketing Act directing the Commission to include new requirements in the ''abusive telemarketing acts or practices'' provisions of the TSR.[18] Section 1011(b)(1) amends the ''deceptive telemarketing acts or practices'' provision of the Telemarketing Act, 15 U.S.C. 6102(a)(2), by specifying that ''fraudulent charitable solicitation'' is to be included as a deceptive practice under the TSR.

The impact of the USA PATRIOT amendments to the Telemarketing Act is discussed more fully in the part of this notice that analyzes § 310.1 of the Rule, which deals with the scope of the Rule's coverage. This notice sets forth a number of proposed changes throughout the text of the TSR to implement the USA PATRIOT amendments. Also, in section IX of this notice, the Commission specifically seeks comment and information about its proposals to conform the TSR to section 1011 of the USA PATRIOT Act.

D. Rule Review and Request for Comment

The Telemarketing Act required that the Commission initiate a Rule review proceeding to evaluate the Rule's operation no later than five years after its effective date of December 31, 1995, and report the results of the review to Congress.[19] Accordingly, on November 24, 1999, the Commission commenced the mandatory review with publication of a **Federal Register** notice announcing that Commission staff would conduct a forum on January 11, 2000, limited to examination of issues relating to the ''do-not-call'' provision of the Rule, and soliciting applications to participate in the forum.[20] Seventeen associations, individual businesses, consumer organizations, and law enforcement agencies, each with an affected interest and an ability to represent others with similar interests, were selected to engage in the Forum's roundtable discussion (''Do-Not-Call'' Forum), which was held on January 11, 2000, at the FTC offices in Washington, DC.[21]

[7] 60 FR 43843.

[8] 16 CFR 310.4(d).

[9] 16 CFR 310.3(a)(1).

[10] 16 CFR 310.3(a)(3).

[11] 16 CFR 310.4(c), and 310.4(b)(1)(ii).

[12] 16 CFR 310.3(a)(2).

[13] 16 CFR 310.4(a)(2)-(4).

[14] 16 CFR 310.3(b) and (c).

[15] 16 CFR 310.6(a)–(c).

[16] 16 CFR 310.6(d)–(f).

[17] 16 CFR 310.2(u) (pursuant to 15 U.S.C. 6106(4) (catalog sales)); 16 CFR 310.6(g) (business-to-business sales). In addition to these exemptions, certain entities including banks, credit unions, savings and loans, companies engaged in common carrier activity, non-profit organizations, and companies engaged in the business of insurance are not covered by the Rule because they are specifically exempt from coverage under the FTC Act. 15 U.S.C. 45(a)(2); *but see,* discussion immediately following concerning the USA PATRIOT Act amendments to the Telemarketing Act. Finally, a number of entities and individuals associated with them that sell investments and are subject to the jurisdiction of the Securities and Exchange Commission or the Commodity Futures Trading Commission are exempt from the Rule. 15 U.S.C. 6102(d)(2)(A); 6102(e)(1).

[18] Specifically, section 1011(b)(2)(d) mandates that the TSR include ''a requirement that any person engaged in telemarketing for the solicitation of charitable contributions, donations, or gifts of money or any other thing of value, shall promptly and clearly disclose to the person receiving the call that the purpose of the call is to solicit charitable contributions, donations, or gifts, and make such other disclosures as the Commission considers appropriate, including the name and mailing address of the charitable organization on behalf of which the solicitation is made.'' Pub. L. 107–56 (Oct. 25, 2001).

[19] 15 U.S.C. 6108.

[20] 64 FR 66124 (Nov. 24, 1999). Comments regarding the Rule's ''do-not-call'' provision, § 310.4(b)(1)(ii), as well as the other provisions of the Rule, were solicited in a later **Federal Register** notice on February 28, 2000. *See* 65 FR 10428 (Feb. 28, 2000).

[21] The selected participants were: AARP, American Teleservices Association, Callcompliance.com, Consumer.net, Direct Marketing Association, Junkbusters, KTW Consulting Techniques, Magazine Publishers Association, National Association of Attonerys General, National Association of Consumer Agency Administrators, National Association of Regulatory

Continued

On February 28, 2000, the Commission published a second notice in the **Federal Register**, broadening the scope of the inquiry to encompass the effectiveness of all the Rule's provisions. This notice invited comments on the Rule as a whole and announced a second public forum to discuss the provisions of the Rule other than the ''do-not-call'' provision.[22] In response to this notice, the Commission received 92 comments from representatives of industry, law enforcement, and consumer groups, as well as from individual consumers.[23] The commenters uniformly praised the effectiveness of the TSR in combating the fraudulent practices that had plagued the telemarketing industry before the Rule was promulgated. They also strongly supported the Rule's continuing role as the centerpiece of federal and State efforts to protect consumers from interstate telemarketing fraud. However, commenters were less sanguine about the effectiveness of the Rule's provisions dealing with consumers' right to privacy, such as the ''do-not-call'' provision and the provision restricting calling times. They also identified a number of areas of continuing or developing fraud and abuse, as well as the emergence of new technologies that affect telemarketing for industry members and consumers alike.

Specifically, commenters opined that the TSR has been successful in reducing many of the abuses that led to the passage of the Telemarketing Act,[24] and that consumer confidence in the industry has increased and complaints about telemarketing practices have decreased dramatically since the Rule became effective.[25] Commenters credited the TSR with these positive developments.[26] Commenters generally agreed that the Rule has been effective in protecting consumers, without unnecessarily burdening the legitimate telemarketing industry.[27] Commenters also agreed that the Rule has been an effective tool for law enforcement, especially because it allows individual States to obtain nationwide injunctive relief, or to collectively file a common federal action against a single telemarketer, thereby creating enforcement avenues not available under State law.[28] Commenters uniformly stressed that it is important to retain the Rule.[29]

Commenters report that, despite the success of the Rule in correcting many of the abuses in the telemarketing industry, complaints about deceptive and abusive telemarketing practices continue to flow into the offices of consumer groups and law enforcement agencies.[30] As will be discussed in greater detail below, many of these complaints suggest that some of the TSR's provisions need to be amended to better address recurring abuses and to reach emerging problem areas.

Following the receipt of public comments, the Commission held a second forum on July 27 and 28, 2000 (''July Forum''), to discuss provisions of the Rule other than the ''do-not-call'' provision. At this forum, which was held at the FTC offices in Washington, DC, sixteen participants representing associations, individual businesses, consumer organizations, and law enforcement agencies engaged in a roundtable discussion of the effectiveness of the Rule.[31]

At both the ''Do-Not-Call'' Forum and the July Forum, the participants were encouraged to address each other's comments and questions, and were asked to respond to questions from Commission staff. The forums were open to the public, and time was reserved to receive oral comments from members of the public in attendance. Several members of the public spoke at each of the forums. Both proceedings were transcribed and placed on the public record. The public record to date, including the comments and the forum transcripts, has been placed on the Commission's website on the Internet.[32] Based on the record developed during the Rule review proceeding, as well as the Commission's law enforcement experience, the Commission has determined to retain the Rule, but proposes to amend it.

D. Notice of Proposed Rulemaking

By this document, the Commission is proposing revisions to the TSR in order to ensure that consumers receive the protections that the Telemarketing Act, as amended, mandated. The proposed changes to the Rule are made pursuant to the rule review requirements of the Telemarketing Act,[33] and pursuant to the rulemaking authority granted to the Commission by that Act to protect consumers from deceptive and abusive practices,[34] including practices that may be coercive or abusive of the consumer's interest in protecting his or her privacy.[35] As discussed in detail below, the Commission believes the proposed modifications are necessary to ensure that the Rule fulfills this statutory mandate. As noted, the Commission has proposed changes throughout the Rule pursuant to section 1011 of the USA PATRIOT Act. The Commission invites written comment on the questions in Section IX to assist the Commission in determining whether the proposed modifications strike the appropriate balance, maximizing consumer protections while avoiding the imposition of unnecessary compliance burdens on the legitimate telemarketing industry.

Utility Commissioners, North American Securities Administrators Association, National Consumers League, National Federation of Nonprofits, National Retail Federation, Private Citizen, and Promotion Marketing Association. References to the ''Do-Not-Call'' Forum transcript are cited as ''DNC Tr.'' followed by the appropriate page designation.

[22] 65 FR 10428 (Feb. 28, 2000). The Commission extended the comment period from April 27, 2000, to May 30, 2000. 65 FR 26161 (May 5, 2000).

[23] A list of the commentes, and the acronyms used to identify each commenter in this Notice, is attached as Appendix A. References to comments are cited by the commenter's acronym followed by the appropriate page designation.

[24] For example, complaints about ''recovery'' schemes declined dramatically, from a number 3 ranking in 1995 to a number 25 ranking in 1999, while complaints about credit repair have remained at a relatively low level since 1995 (steadily ranking about number 23 or 24 in terms of number of complaints received by the National Fraud Information Center (''NFIC'')). NCL at 11. Unfortunately, complaints about advance fee loan schemes rose from a number 15 ranking in 1995 to the number 2 ranking in 1998, with about 80% of the advance fee loan companies reported to NFIC located in Canada. NCL at 12.

[25] ATA at 6 (consumers now have increased comfort with the telemarketing industry because of the TSR); ATA at 4–5 (according to NAAG, telemarketing complaints declined from the top consumer complaint in 1995 to number 10 in the first year that the Rule was in effect); KTW at 3 (TSR has added value, respect, and credibility to industry); MPA at 5–7 (complaints about magazine sales have decreased); NAA at 2; NCL at 2–3 (reports to NFIC of telemarketing fraud have decreased over the last five years from 15,738 in 1995 to 4,680 in 1999).

[26] ATA at 4–5; MPA at 5–7; NAA at 2.

[27] AARP at 2; ARDA at 2; ATA at 3–5; Bell Atlantic at 2; DMA at 2; ERA at 2, 6; Gardner at 1; ICFA at 1; KTW at 1; LSAP at 1; MPA at 4–6; NAA at 1–2; NASAA at 1; NACAA at 1; NCL at 2, 17 PLP at 1; Texas at 1; Verizon at 1.

[28] AARP at 2; MPA at 4, 6; NAAG at 1; NACAA at 1; NASAA at 1; NCL at 2; Texas at 1.

[29] AARP at 2; ARDA at 2; ATA at 3–5; Bell Atlantic at 2; DMA at 2; ERA at 2, 6; Gardner at 1; ICFA at 1; KTW at 1; LSAP at 1; MPA at 4–6; NAA at 1–2; NACAA at 1; NASAA at 1; NCL at 2, 17; PLP at 1; Texas at 1; Verizon at 1.

[30] *See, e.g.,* LSAP at 2; NAAG at 4, 10–11; NCL at 5–6, 10, 15–16.

[31] The selected participants were: AARP, ATA, DMA, DSA, ERA, Junkbusters, MPA, NAAG, NACAA, NACHA, NCL, NRF, PLP, Private Citizen, Promotion Marketing Association, and Verizon. References to the July Forum are cited as ''Rule Tr.'' followed by the appropriate page designation.

[32] The electronic portions of the public record can be found at *www.ftc.gov/bcp/rulemaking/tsr/tsr-review.htm*. The full paper record is available in Room 130 at the FTC, 600 Pennsylvania Avenue, N.W., Washington, DC 20580, telephone number: 1–877–FTC–HELP (1–877–382–4357).

[33] 15 U.S.C. 6108.

[34] 15 U.S.C. 6102(a)(1) and (a)(3).

[35] 15 U.S.C. 6102(a)(3)(A).

II. Overview

A. Changes in the Marketplace

Since the Rule was promulgated, the marketplace for telemarketing has changed in significant ways that impact the effectiveness of the TSR. The proposed amendments to the TSR, therefore, attempt to respond to and reflect these changes in the marketplace.

One of the changes in the way telemarketing is conducted relates to refinements in data collection and target marketing techniques that allow sellers to pinpoint with greater precision which consumers are most likely to be potential customers.[36] These developments offer the obvious benefit of making telemarketing more effective and efficient for sellers. However, enhanced data collection and target marketing also have led to increasing public concern about what is perceived to be increasing encroachment on consumers' privacy. These privacy concerns initially focused on the Internet. However, the privacy debate has expanded to include all forms of direct marketing. Consumers have demanded more power to determine who will have access to their time and attention while they are in their homes.[37] Indeed, a majority of the comments received during the Rule review focused on issues relating to consumer privacy and consumer sovereignty, rather than on fraudulent telemarketing practices.

One result of the call for greater consumer empowerment on issues of privacy has been a greater public and governmental focus on the ''do-not-call'' issue.[38] Related to the ''do-not-call'' issue is the proliferation of technologies, such as caller identification service, that assist consumers in managing incoming calls to their homes.[39] Similarly, privacy advocates have raised concerns about technologies used by telemarketers (such as predictive dialers and deliberate blocking of Caller ID information) that hinder consumers' attempts to screen calls or make requests to be placed on a ''do-not-call'' list.

A second change in the marketplace involves payment methods available to consumers and businesses. The growth of electronic commerce and payment systems technology has led, and likely will continue to lead, to new forms of payment and further changes in the way consumers pay for goods and services they purchase through telemarketing. Examples of emerging payment devices include stored value cards and a host of Internet-based payment systems.[40] In addition, billing and collection systems of telephone companies, utilities, and mortgage lenders are becoming increasingly available to a wide variety of vendors of all types of goods and services.[41]

The type of payment device used by a consumer to pay for goods and services purchased through telemarketing determines the level of protection that a consumer has in contesting unauthorized charges and, in some instances, the kinds of dispute resolution proceedings available to the consumer should the goods or services be unsatisfactory. Of all the payment devices available to consumers to pay for telemarketing transactions, only credit cards afford limited liability for unauthorized charges and dispute resolution procedures pursuant to federal law.[42] Therefore, because newly available payment methods in many instances are relatively untested, and may not provide protections for consumers from unauthorized charges, consumers may need additional protections—and vendors heightened scrutiny—when using these new payment methods.

Finally, over the past five years, the practice of preacquired account telemarketing—where a telemarketer acquires the customer's billing information prior to initiating a telemarketing call or transaction—has increasingly resulted in complaints from consumers about unauthorized charges. Billing information can be preacquired in a variety of ways, including from a consumer's financial institution or utility company, from the consumer in a previous transaction, or from another source.[43] In many instances, the consumer is not involved in the transfer of the billing information and is unaware that the seller possesses it during the telemarketing call.[44]

The related practice of ''up-selling'' has also become more prevalent in telemarketing.[45] Through this technique, customers are offered additional items for purchase after the completion of an initial sale. In the majority of up-selling scenarios, the

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[36] *See, e.g.,* DNC Tr. at 35–36; Rule Tr. at 70–81; ATA at 9 (industry goes to great lengths to identify only those consumers who are likely purchasers of their products). *See also* Robert O'Harrow, *A Hidden Toll on Free Calls: Lost Privacy—Not even unlisted numbers protected from marketers.* Washington Post, p. A1 (Dec. 19, 1999); Robert O'Harrow, *Horning In On Privacy: As Databases Collect Personal Details Well Beyond Credit Card Numbers, It's Time to Guard Yourself,* Washington Post, p. H1 (Jan. 2, 2002); *Dialing for Dollars: How to be Rid of Telemarketers,* Orlando Sentinel (Sept. 29, 1999), p. E2 (describing process of data mining and types of information gleaned by list brokers for sale to telemarketing firms): Carol Pickering, *They're Watching You: Data-Mining firms are watching your every move—and predicting the next one,* Business 2.0 (Feb. 2000), p. 135; and, *Selling is Getting Personal,* Consumer Reports, p. 16 (Nov. 2000).

[37] *See, e.g.,* Bennett at 1; Biagiotti at 1; Card at 1; Conway at 1; Gilchrist at 1; Gindin at 1; Heagy at 1; Holloway at 1; Kelly at 1; Lee at 1; Runnels at 1; Ver Steegt at 1; and DNC Tr. at 83–130. *See also* O'Harrow, ''A Hidden Toll'' at A1 and ''Horning In'' at H1; and Gene Gray, *The Future of the Teleservices Industry—Are You Aware?,* 17 Call Ctr. Solutions (Jan. 1999) p. 90.

[38] *See generally* DNC Tr. See *also* George Raine, *Drive to Ban Unsolicited Sales Calls; Consumer Activist's Initiative Would Bar Unwanted E-mail, Telemarketing,* The San Francisco Examiner, p.B–1 (Dec. 21, 1999). *See also* the discussion below of the proposed revision to the ''do-not-call'' provision, § 310.4(b)(1)(iii).

[39] *See, e.g.,* DNC Tr. at 83–130. *See also*, Donna Halvorsen, *Home defense against telemarketing: Consumers reaching out to services that screen telemarketers,* Star Tribune (Minneapolis), p. 1A (July 17, 1999); Stephanie N. Mehta, *Playing Hide-and-Seek by Telephone*, Wall Street Journal, p. B–1 (Dec. 13, 1999); Stanley A. Miller II, *Privacy Manager Thwarts Telemarketers. Ameritech says 7 out of 10 ''junk'' calls do not get through to customers,* Milwaukee Journal, p. 1 (Aug. 10, 1999); and Ed Russo, *Phone Devices Put Chill on Cold Calls Screening, ID Altering Telemarketing,* Omaha World-Herald, p. 1a (Sept. 26, 1999).

[40] *See* NCL at 5. A more complete discussion of these new payment methods is included below in the section discussing express verifiable authorization, § 310.3(a)(3).

[41] *Id.*; NAAG at 10; Rule Tr. 111; 254–257.

[42] The Fair Credit Billing Act, 15 U.S.C. 1666 *et seq.* provides customers with dispute resolution rights when they believe a credit card charge is inaccurate. Debit cards are not similarly protected by federal law; however, Visa offers '''$0 liability' protection in cases of fraud, theft or unauthorized card usage if reported within two business days of discovery,'' capping liability at $50 after that. *See www.visa.com/ct/debit/main.html.* Similarly, Mastercard offers a zero liability policy when loss, theft, or unauthorized use is reported within 24 hours of discovery, and otherwise caps liability at $50 ''in most circumstances.'' *See www.mastercard.com/general/zero__liability.html.* In addition, the Commission's 900-Number Rule specifies dispute resolution procedures for disputes involving pay-per-call transactions. 16 CFR 308.7.

[43] *See* NAAG at 10. The review of the TSR was completed before the implementation of the FTC's Privacy Rule, 16 CFR Part 313, mandated by the Gramm-Leach-Bliley Act. 15 USC 6801–6810. The Privacy Rule prohibits financial institutions from disclosing, other than to a consumer reporting agency, customer account numbers or similar forms of access to any non-affiliated third party for use in direct marketing, including telemarketing. 16 CFR 313.12(a).

[44] *Id.*

[45] *See generally* Rule Tr. at 95–99, 107–111, 176–177. For the purposes of this Notice, the Commission intends the term ''up-selling'' to mean any instance when, after a company captures credit card, or other similar account, data to close a sale, it offers the customer a second product or service. For example, a consumer might initiate an inbound telemarketing call in response to a direct mail solicitation for a given product, and, after making a purchase, be asked if he or she would be interested in another product or service offered by the same or another seller. Sometimes the further solicitation is made by the same telemarketer, and sometimes the call is transferred to a different telemarketer. When the product or service is offered by the same seller, the practice is called internal up-selling; when a second seller is involved, the practice is termed external up-selling.

seller or telemarketer already has received the consumer's billing information, either from the consumer or from another source. When the consumer is unaware that the seller or telemarketer already has his or her billing information, or that this billing information will be used to process a charge for goods or services offered in an ''up-sell,'' the most fundamental tool consumers have for controlling commercial transactions—*i.e.,* withholding the information necessary to effect payment unless and until they have consented to buy—is ceded, without the consumers' knowledge, to the seller before the sales pitch ever begins.

Cognizant of these changes to the marketplace, and their potentially deleterious effect on consumers, the Commission proposes to amend the TSR.

B. Summary of Proposed Changes to the Rule

The highlights of the Commission's proposal to amend the TSR are summarized below. In brief, the Commission proposes:

- To supplement the current company-specific ''do-not-call'' provision with an additional provision that will empower a consumer to stop calls from all companies within the FTC's jurisdiction by placing his or her telephone number on a central ''do-not-call'' registry maintained by the FTC;
- To permit a consumer who places his or her telephone number on the central ''do-not-call'' registry to receive telemarketing sales calls from an individual company to whom the consumer has provided his or her express verifiable authorization to make telemarketing calls to his or her telephone.
- To modify § 310.3(a)(3) to require express verifiable authorization for all transactions in which the payment method lacks dispute resolution protection or protection against unauthorized charges similar or comparable to those available under the Fair Credit Billing Act and the Truth in Lending Act.
- To delete § 310.3(a)(3)(iii), the provision allowing a telemarketer to obtain express verifiable authorization by sending written confirmation of the transaction to the consumer prior to submitting the consumer's billing information for payment;
- To require, in the sale of credit card protection, the disclosure of the legal limits on a cardholder's liability for unauthorized charges;
- To prohibit misrepresenting that a consumer needs offered goods or services in order to receive protections he or she already has under 15 U.S.C. 1643 (limiting a cardholder's liability for unauthorized charges on a credit card account);
- To mandate, explicitly, that all required disclosures in § 310.3(a)(1) and § 310.4(d) be made truthfully;
- To expand upon the current prize promotion disclosures to include a statement that any purchase or payment will not increase a consumer's chances of winning;
- To prohibit the practices of receiving any consumer's billing information from any third party for use in telemarketing, or disclosing any consumer's billing information to any third party for use in telemarketing;
- To prohibit additional practices: blocking or otherwise subverting the transmission of the name and/or telephone number of the calling party for caller identification service purposes; and denying or interfering in any way with a consumer's right to be placed on a ''do-not-call'' list;
- To narrow certain of the Rule's exemptions;
- To clarify that facsimile transmissions, electronic mail, and other similar methods of delivery are direct mail for purposes of the direct mail exemption; and
- To modify various provisions throughout the Rule to effectuate expansion of the Rule's coverage to include charitable solicitations, pursuant to Section 1011 of the USA PATRIOT Act.

III. Analysis of Comments and Discussion of Proposed Revisions

The proposed amendments to the Rule do not alter § 310.7 (Actions by States and Private Persons), or § 310.8 (Severability).

A. Section 310.1—Scope of Regulations in This Part

The amendment of the Telemarketing Act by section 1011 of the USA PATRIOT Act is reflected in this section of the TSR. Section 310.1 of the proposed Rule states that ''this part of the CFR implements the Telemarketing Act,[46] as amended by the USA PATRIOT Act.''

During the comment period that occurred prior to enactment of the USA PATRIOT Act, several commenters recommended that the Rule's reach be expanded or clarified.[47] The impact of the USA PATRIOT Act amendments on the scope of coverage of the TSR, the commenters' proposals, and the Commission's reasoning in accepting or rejecting the commenters' proposals, are discussed below.

Effect of the USA PATRIOT Act. As noted above, section 1011(b)(3) of the USA PATRIOT Act amends the definition of ''telemarketing'' that appears in the Telemarketing Act, 15 U.S.C. 6306(4), by inserting the underscored language:

> The term ''telemarketing'' means a plan, program, or campaign which is conducted to induce purchases of goods or services *or a charitable contribution, donation, or gift of money or any other thing of value,* by use of one or more telephones and which involves more than one interstate telephone call * *

In addition, Section 1011(b)(2) adds a new section to the Telemarketing Act requiring the Commission to include in the ''abusive telemarketing acts or practices'' provisions of the TSR:

> a requirement that any person engaged in telemarketing for the solicitation of charitable contributions, donations, or gifts of money or any other thing of value, shall promptly and clearly disclose to the person receiving the call that the purpose of the call is to solicit charitable contributions, donations, or gifts, and make such other disclosures as the Commission considers appropriate, including the name and mailing address of the charitable organization on behalf of which the solicitation is made.

Finally, section 1011(b)(1) amends the ''deceptive telemarketing acts or practices'' provision of the Telemarketing Act, 15 U.S.C. 6102(a)(2), by inserting the underscored language:

> The Commission shall include in such rules respecting deceptive telemarketing acts or practices a definition of deceptive telemarketing acts or practices which *shall include fraudulent charitable solicitations and* which may include acts or practices of entities or individuals that assist or facilitate deceptive telemarketing, including credit card laundering.

Notwithstanding its amendment of these provisions of the Telemarketing Act, neither the text of section 1011 nor its legislative history suggest that it amends Sections 6105(a) of the Telemarketing Act—the provision which incorporates the jurisdictional limitations of the FTC Act into the Telemarketing Act and, accordingly, the TSR. Section 6105(a) states:

> Except as otherwise provided in sections 6102(d) (with respect to the SEC), 6102(e) (Commodity Futures Trading Commission), 6103 (state attorney general actions), and 6104 (private consumer actions) of this title, this chapter shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. § 41 et seq.).

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[46] 15 U.S.C. 6101–6108. The Telemarketing Act was amended by the USA PATRIOT Act on October 25, 2001. Pub. L. 107–56 (Oct. 25, 2001).

[47] *See, e.g.,* DMA at 4; KTW at 4; LSAP at 1; NAAG at 19; NACAA at 2; NCL at 5, 7, 10; Telesource at 4.

Consequently, no activity which is outside of the jurisdiction of that Act shall be affected by this chapter. (Emphasis added.)[48]

One type of ''activity which is outside the jurisdiction'' of the FTC Act, as interpreted by the Commission and federal court decisions, is that of non-profit entities. Sections 4 and 5 of the FTC Act, by their terms, provide the Commission with jurisdiction only over persons, partnerships or ''corporations organized to carry on business for their own profit or that of their members.''[49]

Reading the amendments to the Telemarketing Act effectuated by section 1011 of the USA PATRIOT Act together with the unchanged sections of the Telemarketing Act compels the conclusion that for-profit entities that solicit charitable donations now must comply with the TSR, although the Rule's applicability to charitable organizations themselves is unaffected.[50] The USA PATRIOT Act brings the Telemarketing Act's jurisdiction over charitable solicitations in line with the jurisdiction of the Commission under the FTC Act, by expanding the Rule's coverage to include not only the sale of goods or services but also charitable solicitations by for-profit entities on behalf of nonprofit organizations.[51]

Commenters' Proposals. A number of commenters urged the expansion of the Rule's scope beyond its current boundaries. For example, LSAP strongly suggested that the Commission amend the Rule to provide additional protection for consumers in light of the convergence of the banking, insurance, and securities industries, noting that this phenomenon has resulted in increased sharing of information between these entities, including customers' billing information.[52] Similarly, NCL noted that distinctions between common carriers and other vendors are becoming less relevant as deregulation, detariffing, and mergers have led to increased competition among all types of entities to provide similar products and services.[53] NCL urged that consumers receive the same protections in all commercial telemarketing, regardless of the type of entity involved.[54]

The jurisdictional reach of the Rule is set by statute, and the Commission has no authority to expand the Rule beyond those statutory limits. Thus, absent amendments to the FTC Act, the Commission is limited with regard to any additional protections it might provide in response to acts and practices resulting from the convergence of entities that are otherwise exempt from the Commission's jurisdiction.

In a similar vein, some commenters urged the Commission to clarify the Rule's applicability to non-profit entities.[55] As explained above, although section 1011 of the USA PATRIOT Act expanded the reach of the TSR by enlarging the definition of ''telemarketing'' to encompass not only calls made to induce purchases of goods or services, but also those to solicit charitable contributions, it did not change the fact that the Telemarketing Act and the TSR do not apply to activities excluded from the FTC's reach by the FTC Act.

It should be noted, however, that although the Commission's jurisdiction is limited with respect to the entities exempted by the FTC Act, the Commission has made clear that the Rule does apply to any third-party telemarketers those entities might use to conduct telemarketing activities on their behalf.[56] As the Commission stated when it promulgated the Rule, ''[t]he Final Rule does not include special provisions regarding exemptions of parties acting on behalf of exempt organizations; where such a company would be subject to the FTC Act, it would be subject to the Final Rule as well.''[57]

NACAA suggested that the Commission clarify that the Rule applies to international calls made by telemarketers located outside the United States who call consumers within the United States. The Commission believes that its enforcement record leaves no doubt that sellers or telemarketers located outside the United States are subject to the Rule if they telemarket their goods or services to U.S. consumers.[58]

NCL and KTW suggested that the complementary use of the Internet and telephone technologies necessitates

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[48] Section 6105(b) reinforces the point made in Section 6105(a), as follows:

The Commission shall prevent any person from violating a rule of the Commission under section 6102 of this title in the same manner, by the same means, and *with the same jurisdiction,* powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq. were incorporated into and made a part of this chapter. Any person who violates such rule shall be subject to the penalties and entitled to the same privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and *with the same jurisdiction,* power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this chapter. (Emphasis added.)

[49] Section 5(a)(2) of the FTC Act states: ''The Commission is hereby empowered and directed to prevent persons, partnerships, or corporations * * * from using unfair or deceptive acts or practices in or affecting commerce.'' 15 U.S.C. 45(a)(2). Section 4 of the Act defines ''corporation'' to include: ''any company, trust, so-called Massachusetts trust, or association, incorporated or unincorporated, *which is organized to carry on business for its own profit or that of its members* * * *'' 15 U.S.C. 44 (emphasis added).

[50] A fundamental tenet of statutory construction is that ''a statute should be read as a whole, * * * and that provisions introduced by the amendatory Act should be read together with the provisions of the original section that were * * * left unchanged * * * as if they had been originally enacted as one section.'' Sutherland Stat. Constr. § 22.34, p. 297 (5th ed)., *citing, inter alia, Brothers* v. *First Leasing,* 724 F.2d 789 (9th Cir. 1984); *Republic Steel Corp.* v. *Costle,* 581 F.2d 1228 (6th Cir. 1978); *American Airlines, Inc.,* v. *Remis Indus., Inc.*, 494 F.2d 196 (2d Cir. 1974); *Kirchner* v. *Kansas Turnpike Auth.,* 336 F.2d 222 (10th Cir. 1964); *National Center for Preservation Law* v. *Landrieu,* 496 F. Supp. 716 (D. SC. 1980); *Conoco, Inc.* v. *Hodel,* 626 F. Supp. 287 (D. Del. 1986); *Palardy* v. *Horner,* 711 F. Supp. 667 (D. Mass. 1989). Thus, in constructing a statute and its amendments, ''[e]ffect is to be given to each part, and they are to be interpreted so that they do not conflict.'' *Id.*

[51] While First Amendment protection for charities extend to their for-profit solicitors, *e.g., Riley* v. *Nat'l Fed. of the Blind,* 487 U.S. 781 (1988), this narrowly tailored proposed rule furthers government interests that justify the regulation. One such interest is prevention of fraud. *E.g., Sec. of State of Maryland* v. *Joseph H. Munson Co.,* 467 U.S. 947, 969 n.16 (1984); *Telco Communications, Inc.* v. *Carbaugh,* 885 F.2d 1231,1232 (4th Cir. 1989), *cert. denied,* 495 U.S. 904 (1990). Another is protection of home privacy. *See, e.g., Frisby* v. *Schultz,* 487 U.S. 474, 484 (1988) (targeted picketing around a home); *Watchtower Bible and Tract Society of New York, Inc.* v. *Village of Stratton, Ohio*, 240 F.3d 553 (6th Cir.), *cert. granted on other grounds,* __U.S.__ (2001) (upholding law, based on both privacy and fraud grounds, forbidding canvassing of residents who filed a No Solicitation Form with mayor's office).

[52] *See* LSAP at 1.

[53] *See* NCL at 4–5, 7, 15.

[54] *Id.* at 5, 15. NCL also raised concerns about ''cramming,'' which refers to the practice of placing unauthorized charges on a telephone subscriber's telephone bill. *Id.* at 7. This practice is being considered in connection with the review of the Commission's Pay-Per-Call Rule, *see,* 63 FR 58524, (Oct. 30, 1998); thus, it need not be treated in the context of the TSR.

[55] NAAG at 19; NACAA at 2; NFN at 1.

[56] For example, although the Rule does not apply to the activities of banks, savings and loan institutions, certain federal credit unions, or to the business of insurance to the extent that such business is regulated by State law, any non-exempt telemarketer calling on behalf of one of these entities would be covered by the Rule. *See* 60 FR at 43843; FTC/Direct Mktg. Ass'n., *Complying with the Telemarketing Sales Rule* (Apr. 1996), p. 12.

[57] 60 FR at 43843. This discussion also addresses NACAA's request that the Commission clarify that it has jurisdiction over telemarketing activities involving the switching of consumers' long-distance service. NACAA at 2. The TSR covers the telemarketing of long-distance service to the extent that the telemarketing is conducted by entities that are subject to the FTC Act.

[58] *See, e.g., FTC* v. *Win USA,* No. C98–1614Z (W.D. Wash. filed Nov. 13, 1998); *FTC* v. *Pacific Rim Pools Int'l,* No. C97–1748, (W.D. Wash. filed Nov. 7, 1997) (Order for Permanent Injunction and Final Judgment entered on Jan. 12, 1999); *FTC* v. *The Tracker Corp. of America,* No. 1:97–CV–2654–JEC (N.D. Ga. filed Sept. 11, 1997); *FTC* v. *9013–0980 Quebec, Inc.,* No. 1:96 CV 1567 (N.D. Ohio filed July 18, 1996); and *FTC* v. *Ideal Credit Referral Svcs., Ltd.,* No. C96–0874, (W.D. Wash. filed June 5, 1996).

broadening the scope of the Rule to cover online solicitations.[59] In the original rulemaking, the Commission stated that it lacked sufficient information to support coverage of online services under the Rule,[60] but noted that such media were subject to the Commission's jurisdiction under the FTC Act. Indeed, since 1995, the Commission has brought more than 200 actions against entities who have used the Internet to defraud consumers.[61]

The Commission believes that the issue of whether there is a need for standards for Internet or online advertising and marketing is distinct from the issues relevant to telemarketing. E-commerce issues are best considered within the specific context of business practices in the realm of electronic commerce. In fact, the Commission has begun considering these issues by conducting an inquiry on how to apply its rules and guides to online activities, and issuing a staff working paper that provides guidelines for appropriate disclosures when marketing online.[62] The Commission believes that the body of case law that has been developed on Internet fraud and deception, coupled with its published business education materials[63] for online advertising disclosures, provide a developing source of guidance for promoting and marketing on the Internet.

B. Section 310.2—Definitions

The Commission received comments on several of the Rule's definitions. Each suggested change and the Commission's reasoning in accepting or rejecting that change is discussed below.

The proposed Rule retains the following definitions from the original Rule unchanged, apart from renumbering: ''acquirer,'' ''attorney general,'' ''cardholder,'' ''Commission,'' ''credit,'' ''credit card,'' ''credit card sales draft,'' ''credit card system,'' ''customer,'' ''investment opportunity,'' ''person,'' ''prize,'' ''prize promotion,'' ''seller,'' and ''State.''

In addition, as discussed in detail below, the Commission proposes modifying the definition of ''outbound telephone call,'' and also proposes adding several new definitions: ''billing information,'' ''caller identification service,'' ''express verifiable authorization,'' ''Internet services,'' and ''Web services.''

Further, in order to implement the amendments to the Telemarketing Act made by section 1011 of the USA PATRIOT Act, the Commission proposes adding certain definitions to the Rule, and modifying others. Section 1011(b)(3) of the USA PATRIOT Act amends the definition of ''telemarketing'' in the Telemarketing Act, 15 U.S.C. 6306(4), by inserting the underscored language:

> The term ''telemarketing'' means a plan, program, or campaign which is conducted to induce purchases of goods or services *or a charitable contribution, donation, or gift of money or any other thing of value,* by use of one or more telephones and which involves more than one interstate telephone call * * * (emphasis added).

The proposed Rule's definition of ''telemarketing'' incorporates this change. To fully implement this definitional change, the proposed Rule adds definitions of the terms ''charitable contribution'' and ''donor,'' discussed below. In addition, the existing definition of ''telemarketer'' requires modification to reflect the expanded reach of the Rule to cover telephone solicitations of charitable contributions pursuant to the USA PATRIOT Act. Accordingly, the definition of ''telemarketer'' now includes the analogous phrase ''or donor'' following each appearance of the term ''customer'' or ''consumer.'' Similarly, in two of the new proposed definitions, ''billing information,'' and ''express verifiable authorization,'' the analogous phrase ''or donor'' has also been included following each appearance of the terms ''customer'' or ''consumer.''

Another proposed global change necessitated by the USA PATRIOT Act is the modification of several of the Rule's existing definitions to reflect the expansion of the Rule's coverage to include the solicitation via telemarketing of ''charitable contributions.'' The affected definitions, ''material,'' ''merchant,'' ''merchant agreement,'' and ''outbound telephone call,'' now include the analogous phrase ''or charitable contributions'' following each occurrence of the phrase ''goods or services.''

Section 310.2(c)—''Billing information''

The Commission proposes adding a definition of ''billing information.'' This term comes into play in proposed § 310.3(a)(3), which would add ''billing information'' to the items that must be recited in obtaining a consumer's express verifiable authorization. It is also implicated in proposed § 310.4(a)(5), which would prohibit the abusive practices of receiving any consumer's billing information from any third party for use in telemarketing, or disclosing any consumer's billing information to any third party for use in telemarketing.

As explained further below, in the section discussing proposed changes to § 310.3(a)(3), the Commission proposes to require that ''billing information'' be recited as part of the process of obtaining a consumer's or donor's express verifiable authorization. Under the original Rule, if the telemarketer opted to seek oral authorization for a demand draft, the Rule required that the telemarketer tape record the customer's oral authorization, as well as the provision of the following information: the number, date(s) and amount(s) of payments to be made, the date of authorization, and a telephone number for customer inquiry that is answered during normal business hours. The proposed Rule would expand the express verifiable authorization requirement to other payment methods, and would add to this list of disclosures ''billing information,'' *i.e.,* the identification of the consumer's or donor's specific account and account number to be charged in the particular transaction, to ensure that consumers and donors know which of their accounts will be billed. A definition of ''billing information'' would clarify sellers' and telemarketers' obligations under this proposed revision.

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[59] *See* KTW at 4; NCL at 7.

[60] 60 FR at 30411.

[61] Included among the FTC's enforcement actions against Internet fraud and deception are cases attacking unfair and deceptive use of ''dialer programs.'' NCL expressed concern about these programs, which are downloadable software programs that consumers access via the Internet. Once a dialer program is downloaded, it disconnects a consumer's computer modem from the consumer's usual Internet service provider, dials an international phone number in a country with a high per-minute telephone rate, and reconnects the consumer's modem to the Internet from some overseas location, typically opening at an adult website. Line subscribers—the consumers responsible for paying phone charges on the telephone lines—then begin incurring charges on their phone lines for the remote connection to the Internet, typically at the rate of about $4.00 per minute. The charges for the Internet-based adult entertainment are represented on the consumer's phone bill as international telephone calls. Under its Section 5 authority, the Commission has brought cases against videotext providers who use these dialer programs in an unfair or deceptive manner. *See, e.g., FTC* v. *Hillary Sheinkin,* No. 2–00–3636–18 (D.S.C. filed Nov. 18, 2000); *FTC* v. *Ty Anderson,* No. C00–1843P (W.D. Wash. filed Oct. 27, 2000); *FTC* v. *Verity Int'l, Ltd.,* No. 7422 (S.D.N.Y. filed Oct. 2, 2000); *FTC* v. *Audiotex Connection, Inc.,* No. 97–0726 (E.D.N.Y filed Feb. 13, 1997).

[62] 63 FR 24996 (May 6, 1998) (public comments and the workshop transcript for the proceeding are available at *www.ftc.gov/bcp/rulemaking/elecmedia/index.htm); FTC, Dot Com Disclosures: Information About Online Advertising* (Staff Working Paper, May, 2000). *See also,* FTC, *Advertising and Marketing on the Internet: Rules of the Road* (September, 2000), a guide to comlying with FTC rules and guides when advertising and marketing on the Internet.

[63] *See* FTC, *Dot Com Disclosures;* FTC, *Advertising and Marketing on the Internet.*

As explained in the section discussing proposed § 310.4(a)(5)—which would prohibit receiving from any person other than the consumer or donor for use in telemarketing any consumer's or donor's ''billing information,'' or disclosing any such ''billing information'' to any person for use in telemarketing—the inclusion of this provision banning trafficking in ''billing information'' makes it necessary to provide in the Rule a definition of that term. The proposed Rule defines ''billing information'' as any data that provides access to a consumer's or donor's account, such as a credit card, checking, savings, share or similar account, utility bill, mortgage loan account, or debit card. The Commission intends this term to include information such as a credit or debit card number and expiration date, bank account number, utility account number, mortgage loan account number, customer's or donor's date of birth or mother's maiden name, and any other information used as proof of authorization to effect a charge against a person's account.

Section 310.2(d)—''Caller Identification Service''

The Commission proposes adding a definition of ''caller identification service.'' As described, below, in the discussion of § 310.4(a)(6), the Commission proposes specifying that it is an abusive practice to block, circumvent, or alter the transmission of, or direct another person to block, circumvent, or alter the transmission of, the name and/or telephone number of the calling party for caller identification service purposes, provided that it shall not be a violation to substitute the actual name of the seller and the seller's customer service number, which is answered during regular business hours, for the phone number used in making the call. In order to clarify what is prohibited under this proposed provision, the Commission has defined ''caller identification service'' as ''a service that allows a telephone subscriber to have the telephone number and, where available, name of the calling party transmitted contemporaneously with the telephone call, and displayed on a device in or connected to the subscriber's telephone.'' The Commission intends the proposed definition of ''caller identification service'' to be sufficiently broad to encompass any existing or emerging technology that provides for the transmission of calling party information during the course of a telephone call.

Section 310.2(f)—''Charitable Contribution''

The Commission proposes adding a definition of ''charitable contribution.'' Section 1011 of the USA PATRIOT Act amends the Telemarketing Act to specify as an abusive practice the failure of ''any person engaged in telemarketing for the solicitation of *charitable contributions, donations, or gifts of money or any other thing of value''* to make certain prompt and clear disclosures. The Commission has determined that the single term ''charitable contribution,'' defined for the purposes of the Rule to mean ''any donation or gift of money or any other thing of value'' succinctly captures the meaning intended by Congress. Therefore, the Commission proposes to add this definition to the Rule.

The Commission has also determined that this definition should explicitly clarify that the definition and, accordingly, the entire Rule, is inapplicable to political contributions, including contributions to political parties and candidates. Calls to solicit such contributions are outside the scope of the Rule because they involve neither purchases of goods or services nor solicitations of charitable contributions, donations or gifts, and thus fall outside the statutory definition of ''telemarketing.'' 15 U.S.C. 6106(4). Thus, the Commission proposes to exclude from the definition of ''charitable contribution'' any contributions to ''political clubs, committees, or parties.'' [64] Additionally, as a matter of policy, and following the example of many state laws, the Commission also proposes to exclude from the definition contributions to constituted religious organizations or groups affiliated with and forming an integral part of the organization where no part of the net income inures to the direct benefit of any individual, and which has received a declaration of current tax exempt status from the United States government.'' [65] The Commission believes that the risk of actual or perceived infringement on a paramount societal value—free and unfettered religious discourse—likely outweighs the benefits of protection from fraud and abuse that might result from including contributions to such organizations within the scope of the definition.

[64] Similarly, a number of state statutes regulating charitable solicitations exempt political organizations. *E.g.,* Fla. Stat. ch. 496.403 (2000). Ill. Rev. Stat. ch. 23 para. 5103(2000).

[65] *See, e.g.,* Ga. Code Ann. Sec. 43–17–2(2); Ill. Rev. Stat. ch. 14 para. 54 (2000).

Section 310.2(m)—''Donor''

As part of its implementation of section 1011 of the USA PATRIOT Act, the Commission proposes adding a definition of ''donor.'' This Act's expansion of the TSR's coverage to encompass charitable solicitations necessitates the inclusion of a term in the Rule to denote a person solicited to make a charitable contribution. Throughout the original Rule, the terms ''customer'' and ''consumer'' are used to refer to those subject to a solicitation to purchase goods or services by a seller or telemarketer. The meaning of these terms cannot reasonably be stretched to include persons being asked to make a charitable contribution. Therefore, the Commission proposes adding to the Rule an analogous term—''donor''—for use in the context of charitable solicitations. Under the proposed definition, a person need not actually make a donation or contribution to be a ''donor.'' He or she need only be solicited to make a charitable contribution. (In this respect, the definition tracks the definition of ''customer''—''any person who is or may be required to pay for goods or services * * *.'')

Section 310.2(n)—''Express Verifiable Authorization''

The Commission proposes adding a definition of ''express verifiable authorization'' because the proposed Rule expands the use of the term beyond its meaning in the original Rule. The term ''express verifiable authorization'' comes into play in the proposed Rule in two distinct provisions: § 310.3(a)(3), requiring the express verifiable authorization of a customer or donor to a charge when certain payment methods are used; and § 310.4(b)(1)(iii)(b), which makes it a violation of the Rule to call any consumer or donor who has placed himself or herself on the national ''do-not-call'' list absent that consumer's or donor's express verifiable authorization. In order to ensure clarity, the term ''express verifiable authorization'' has been defined to mean ''the informed, explicit consent of a consumer or donor, which is capable of substantiation.'' The specific means of obtaining express verifiable authorization for a charge are listed in § 310.3(a)(3)(i)–(ii) and the specific means of obtaining express verifiable authorization to place a call to a consumer or donor who is on the national ''do-not-call'' list is found in § 310.4(b)(1)(iii)(B)(1)–(2).

Section 310.2(m)—''Internet Services''

The Commission also proposes adding a definition of ''Internet services'' because of the proposed modification of the business-to-business exemption, § 310.6(g), to make the exemption unavailable to telemarketers of Internet services, a line of business that is increasingly pursued by fraudulent telemarketers. Thus, the Commission proposes that the term ''Internet services'' be defined as ''the provision, by an Internet Service Provider, or another, of access to the Internet.'' The Commission intends for this term to encompass the provision of whatever is necessary to gain access to the Internet, including software and telephone or cable connection, as well as other goods or services providing access to the Internet. Specifically, the term includes provision of access to the Internet, or any component thereof, such as electronic mail, the World Wide Web, websites, newsgroups, Internet Relay Chat or file transfers.

Section 310.2(r)—''Outbound Telephone Call''

The Commission proposes modifying the Rule's definition of ''outbound telephone call''[66] to clarify the Rule's coverage in two situations: (1) When, in the course of a single call, a consumer or donor is transferred from one telemarketer soliciting one purchase or charitable contribution to a different telemarketer soliciting a different purchase or contribution, such as in the case of ''up-selling;''[67] and (2) when a single telemarketer solicits purchases or contributions on behalf of two separate sellers or charitable organizations (or some combination of the two). Under the proposed definition, when a call, whether originally initiated by a consumer/donor or by a telemarketer, is transferred to a separate telemarketer or seller for the purpose of inducing a purchase or charitable contribution, the transferred call shall be considered an ''outbound telephone call'' under the Rule. Similarly, if a single telemarketer solicits for two or more distinct sellers or charitable organizations in a single call, the second (and any subsequent) solicitation shall be considered an ''outbound telephone call'' under the Rule.

The Commission proposes this change in response to evidence in the Rule review record that the practice of ''up-selling'' is becoming increasingly common.[68] The Commission believes that in external up-selling, when calls are transferred from one seller or telemarketer to another, or when a single telemarketer solicits on behalf of two distinct sellers, it is crucial that consumers or donors clearly understand that they are dealing with separate entities. In the original Rule, the Commission determined that a disclosure of the seller's identity was necessary in every outbound call to enable the customer to make a fully-informed purchasing decision.[69] In the case of a call transferred by one telemarketer to another to induce the purchase of goods or services, or one in which a single telemarketer offers the goods or services of two separate sellers, it is equally important that the consumer know the identity of the second seller, and that the purpose of the second call is to sell goods or services. Such information is equally material to a donor's decision in the context of solicitations for charitable contributions. The Commission has determined that treating the transferred call as a separate outbound call will ensure that consumers receive the disclosures required by § 310.4(d) and that donors receive the disclosures proposed by § 310.4(e),[70] thereby clarifying the nature of the transaction for the consumer or donor, and providing him or her with material information necessary to make an informed decision about the solicitation(s) being made.[71]

In addition, the Commission wishes to clarify that a transferred call or a solicitation by a single telemarketer on behalf of a separate seller or charitable organization is, for the purposes of the Rule, a separate transaction. Because it is a separate transaction, it will be covered by the Rule if the separate seller or charitable organization is subject to the Commission's jurisdiction. Thus, if an initial inbound call is exempt from the Rule's coverage—for example, under the § 310.6(e) exemption for calls in response to general media advertising—but the consumer or donor is transferred to another seller or telemarketer, or if a second (or subsequent) seller's or charitable organization's solicitation is made by a single telemarketer, the transaction with the second solicitation will *not* be exempt under the general media exemption. On the contrary, the Commission will consider this to be a separate transaction and will make a separate determination whether that second seller or telemarketer falls within the FTC's jurisdiction and thus is subject to all of the Rule's requirements.

Section 310.2(aa)—''Telemarketing''

As explained above, the USA PATRIOT Act's amended definition of ''telemarketing'' has been incorporated into the definition of ''telemarketing'' in the Rule.

Section 310.2(bb)—''Web Services''

The Commission proposes adding a definition of ''Web services'' because of the proposed amendment to the business-to-business exemption, § 310.6(g), to make it unavailable to sellers and telemarketers of Web services, a line of business demonstrated by the Commission's recent law enforcement experience to be an area of particular abuse by fraudulent telemarketers. The Commission proposes that the term ''Web services'' be defined as ''designing, building, creating, publishing, maintaining, providing, or hosting a website on the Internet.'' The Commission intends for this term to encompass any and all services related to the World Wide Web.

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[66] The definition of ''outbound telephone call'' is in § 310.2(n) of the original Rule.

[67] *See* n.45 for an explanation of this term.

[68] *See* Rule Tr. at 95–99, 107–111, 176–177.

[69] The Act specified that the Commission include in the Rule a requirement that the telemarketer ''promptly and clearly disclose to the person receiving the call that the purpose of the call is to sell goods and services and make such other disclosures as the Commission deems appropriate, including the nature and price of the goods and services.'' 15 U.S.C. 6102(a)(3)(c). In the original rulemaking, the Commission determined that two additional disclosures were necessary: (1) The identity of the seller, and (2) that no purchase or payment is necessary to be able to win a prize or participate in a prize promotion if a prize promotion is offered. 16 CFR 310.4(d)(1) and (4). Section 310.4(e)(1) of the proposed Rule imposes an analogous requirement to disclose the identity of the charitable organization on behalf of whom an outbound telemarketing call is being made to solicit charitable contributions.

[70] In particular, consumers and donors need to understand that they are dealing with more than one seller or charitable organization, and the identity of each. It is also important that consumers understand that the purpose of the second transaction is to solicit sales goods or services, or charitable contributions (whichever is applicable).

[71] Additionally, the disclosures in § 310.3(a)(1) (or of proposed § 310.3(a)(4) as to charitable solicitations) would, of course, also have to be made by each telemarketer. In fact, as discussed, below, in the discussion of § 310.3, the Commission believes that even when a single telemarketer acts on behalf of two sellers or charitable organizations, it is necessary for these transactions to be treated as separate for the purposes of complying with the TSR. Therefore, in such an instance, the telemarketer should take care to ensure that the customer/donor is provided with the necessary disclosures for the primary solicitation, as well as any further solicitation. Similarly, express verifiable authorization for each solicitation, when required, would be necessary. Of course, even absent the Rule's requirement to obtain express verifiable authorization, telemarketers must always take care to ensure that consumers' or donors' explicit consent to the purchase or contribution is obtained.

Other Recommendations by Commenters Regarding Proposed Definitions

Credit terms. NCL recommended that changes in the way consumers pay for goods and services they purchase via telemarketing may necessitate changes in the Rule.[72] NCL further suggested that, if the Rule were amended to address telephone billing and other new forms of electronic payment, the definitions of ''credit card,'' ''merchant,'' and ''merchant agreement'' might need to be changed to ensure coverage of these new or alternative billing methods.[73] The Commission agrees that consumers need additional protection in certain telemarketing sales situations, but has effected these protections through proposed changes to the express verifiable authorization provision.[74] Therefore, the definitions of ''credit card,'' ''merchant,'' and ''merchant agreement'' are retained unchanged.

Telemarketing. DSA recommended that the definition of ''telemarketing'' be changed to make the Rule applicable only when more than one telephone is used in conducting a plan, program, or campaign to induce the purchase of goods or services.[75] The Commission's definition of telemarketing, which states that telemarketing occurs when *one or more* telephones are used to induce the purchase of goods or services, tracks verbatim the Telemarketing Act.[76] Even if it is assumed that the Commission has authority to deviate from the very specific definition mandated by the statute, the Commission believes that there is no justification to do so. Limiting the definition as DSA proposed would unnecessarily restrict the application of the Rule, which currently governs interstate calls which are part of a plan, program or campaign to induce the purchase of goods or services or to induce charitable contributions, even if only a single phone is used to place or receive calls. Therefore, the Commission has determined not to modify the definition in this manner.

Transactions Involving ''Preacquired Account Telemarketing.'' LSAP recommended that new definitions be added for the terms ''account,'' ''account holder,'' ''inbound telephone call,'' and ''preacquired account number,'' to address the practice of preacquired account telemarketing.[77] The Commission agrees that a definition of something like ''account'' would be helpful in clarifying the Rule's coverage, but has determined that the broader term ''billing information'' better serves the purpose. As set forth above, the definition of ''billing information'' is designed to ensure that sellers and telemarketers understand their new obligations under proposed § 310.4(a)(5), which prohibits as an abusive practice the receipt for use in telemarketing from any person other than the consumer or donor any consumer's or donor's billing information, and further prohibits disclosure of any consumer's or donor's billing information to any person for use in telemarketing.[78] Therefore, because it has addressed concerns about preacquired account telemarketing in other ways, the Commission believes that it is unnecessary to add definitions of ''account holder,'' ''inbound telephone call'' and ''preacquired account number.''

Online solicitation. NCL recommended that the scope of the Rule be expanded to cover online solicitations (discussed above in the section addressing proposed revisions to § 310.1), and that a definition of ''online solicitation'' be added to the Rule. For the reasons discussed above, the Commission has decided not to expand the Rule's coverage to online solicitations. Therefore, a definition of ''online solicitation'' is not necessary.

Free Trial Offers. NCL recommended that the Commission include definitions of ''free offer'' and ''trial offer'' if the Rule were amended to include specific requirements for sellers and telemarketers who make such offers. Several commenters noted that the practice of making a free trial offer has generated significant numbers of consumer complaints when those offers are coupled with preacquired-account telemarketing.[79] The Rule review record and the enforcement experience of the Commission and other law enforcement agencies confirm that consumers are often confused about their obligations when a product or service is offered to them for a trial period at no cost and the seller or telemarketer already possesses the consumer's billing information.[80]

As noted by NAAG, in many preacquired account telemarketing solicitations, products and services (often buyers' clubs) are marketed through the use of free trial offers, which are presented to consumers as ''low involvement marketing decisions.''[81] Consumers are asked merely to consent to the mailing of materials about the offer. Consumers frequently do not realize that the seller or telemarketer already has their billing information in hand and, instead, mistakenly believe they must take some action before they will be charged—*i.e.*, that they are under no obligation unless they take some additional affirmative step to consent to the purchase. When such free trial offers are coupled with preacquired account telemarketing, telemarketers often use the preacquired billing information to charge the consumers at the end of the trial period, even when consumers have taken no additional steps to assent to a purchase or authorize the charge, and have never provided any billing information themselves.[82]

The proposed Rule addresses concerns about free trial offers that are marketed in conjunction with preacquired-account telemarketing by banning the receipt of the consumer's billing information for use in telemarketing from any source other than the consumer.[83] The ban on the receipt of customer billing information from any source other than the consumer should curtail abuses that have occurred when free trial offers are made in conjunction with preacquired account telemarketing by effectively eliminating the trade in preacquired billing information. Free trial offers that are made to consumers via telemarketing, but absent the use of preacquired billing information, would, of course, remain subject to the Rule's requirements, including the disclosure requirements in § 310.3(a)(1) and § 310.4(d), and the prohibition on misrepresentations in § 310.3(a)(2). Pursuant to these provisions, any seller or telemarketer offering goods or services on a free trial basis would be required to disclose, among other things, the total cost and quantity of the goods or services and that the customer's account will be automatically charged or debited at the end of the free trial period, if such is the

[72] *See* NCL at 9.

[73] *Id.*

[74] § 310.3(a)(3). A complete analysis of the proposed revisions to this section can be found below in the discussion of § 310.3(a)(3).

[75] *See* DSA at 6.

[76] 15 U.S.C. 6106(4). At the end of the definition, however, the Rule adds a clarifying sentence not present in the statute.

[77] *See* LSAP at 2–3.

[78] *See* the section discussing § 310.4(a)(5), below, for a complete analysis of this provision.

[79] *See* NACAA at 2; NAAG at 11–12, 16–17; NCL at 5–6.

[80] *See, e.g., FTC* v. *Triad Discount Buying Service, Inc.* (S.D. Fla. No. 01–8922 CIV ZLOCH complaint and stipulated order filed Oct. 23, 2001); *New York* v. *Memberworks,* Assurance of Discontinuance (Aug. 2000); *Minnesota* v. *Memberworks, Inc.,* No. MC99–010056 (4th Dist. MN June, 1999); *Minnesota* v. *Damark Int'l, Inc.,* No. C8–99–10638, Assurance of Discontinuance (Ramsey County Dist. Ct. Dec. 3, 1999); *FTC* v. *S.J.A. Society, Inc.,* No. 2:97 CV472 (E.D. Va. filed May 31, 1997).

[81] *See* NAAG at 11.

[82] *Id.* at 11–12.

[83] Proposed Rule, § 310.4(a)(5).

case. Adherence to these Rule requirements will afford consumers the protections needed when accepting goods or services on a free trial basis.

''*Promptly.*'' As described in detail below in the discussion of § 310.4(d), NACAA and Texas suggested defining the term ''prompt'' as used in § 310.4(d) of the Rule, suggesting that the term be defined to mean ''at the onset'' of a call.[84] The Commission believes that the Rule's Statement of Basis and Purpose makes clear that ''prompt'' means ''at once or without delay,''[85] and that further clarification is unnecessary.

C. Section 310.3—Deceptive Telemarketing Acts or Practices

Section 310.3 of the Rule sets forth required disclosures that must be made in every telemarketing call; prohibits misrepresentations of material information; requires that a telemarketer obtain a customer's express verifiable authorization before obtaining or submitting for payment a demand draft; prohibits false and misleading statements to induce the purchase of goods or services or, pursuant to the USA PATRIOT Act amendments, to induce charitable contributions; holds liable anyone who provides substantial assistance to another in violating the Rule; and prohibits credit card laundering in telemarketing transactions. During the Rule review, the Commission received a large number of comments addressing various provisions of this section, the substance of which are discussed in turn below.

Section 310.3(a)(1)—Required Disclosures

Section 310.3(a)(1) requires the disclosure by a seller or telemarketer of five types of material information before a customer pays for goods and services. That information includes: the total cost and quantity of the goods offered; all material restrictions, limitations, or conditions to purchase, receive, or use the offered goods or services; information regarding the seller's refund policy if the seller has a policy of not making refunds or if the telemarketer makes a representation about such a policy; certain information relating to the odds involved in prize promotions; and all material costs or conditions to receive or redeem a prize.

Most of the comments about this section expressed support for the required disclosures,[86] and some recommended that additional disclosures be added to the Rule. MPA noted that the inclusion of the required disclosures in the Rule has been beneficial both for industry and consumers by providing clear guidelines for good business practices, and by establishing a standard that helps consumers to distinguish between legitimate and fraudulent telemarketing practices.[87] NASAA noted that the disclosure provisions also have been helpful in protecting investors from ''bait and switch'' scams where stockbrokers claim to be selling blue chip investments, but deliver only high-risk, little-known stocks.[88]

The Commission received no comments addressing the provisions regarding disclosure of refund policies (§ 310.3(a)(1)(iii)), or the disclosure of material costs or conditions to receive a prize (§ 310.3(a)(1)(v)). Moreover, the Commission's enforcement experience with these provisions does not suggest that there are deficiencies or omissions that need to be addressed through amendments. Therefore, these sections are included in the proposed Rule without change.

Several commenters suggested additional disclosures or other changes to § 310.3(a)(1), which they felt would enhance the consumer protections provided by this section. Each recommendation and the Commission's reasons for accepting or rejecting it are set forth below.

Section 310.3(a)(1)(i)—Disclosure of Total Costs

Some commenters suggested that the Commission clarify that, in the case of sales involving monthly installment payments, the total cost to be disclosed should be the total cost of the entire contract, not just the amount of the monthly installment.[89] These commenters noted that it is typical in magazine subscription sales for a telemarketer to state the weekly price for a subscription without giving the total cost for the entire term of the subscription period. For example, a magazine telemarketer might state that a consumer would be charged $3.45 per week for 48 months, rather than stating that the consumer's ultimate liability for the magazines will be more than $700.[90]

The Commission has already noted that in disclosing total costs it is sufficient for a seller or telemarketer to disclose the total number of installment payments and the amount of each payment.[91] The Commission recognizes, however, that it is possible to state the cost of an installment contract in such a way that, although literally true, obfuscates the actual amount that the consumer is being asked to pay. Such a statement of cost would not meet the relevant ''clear and conspicuous'' standard for disclosures under the Rule.[92] Particularly in long-term, high-cost contracts, where it may be advantageous to the seller or telemarketer to break the cost down to weekly or monthly amounts, and for the customer to pay over time, the disclosure of the number of installment payments and the amount of each must correlate to the billing schedule that will actually be implemented. Therefore, to comply with the Rule's total cost disclosure provision, it would be inadequate to state the cost per week if the installments are to be paid monthly or quarterly.

The Commission believes that the current total cost disclosure provision provides a customer with the necessary material information with which to make a purchasing decision when a seller discloses either the overall total cost, or, in the case of installment payments, the total number of payments and the amount of each. Therefore, the provision's language is retained in the proposed Rule without change.

Section 310.3(a)(1)(ii)—Disclosure of Material Restrictions

NAAG opined that the material information that a seller or telemarketer must disclose to a consumer in a telemarketing transaction includes the illegal nature of any goods and services offered. For example, NAAG noted that several cross-border telemarketing cases have involved the sale of foreign lottery chances to citizens of the United States, a practice which is illegal under U.S. law.[93] NAAG expressed the concern that

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[84] *See* NACAA at 2; Texas at 2.

[85] 60 FR at 43856, n. 150.

[86] *See, e.g.,* MPA at 5; ARDA at 2 (asserting that immediate disclosures benefit consumers ''[w]ithout placing an unreasonable burden on telemarketers'').

[87] *See* MPA at 5.

[88] *See* NASAA at 3.

[89] *See* NAAG at 8; Texas at 2.

[90] NAAG at 8.

[91] 60 FR at 43847; *Complying With the Telemarketing Sales Rule* at 16.

[92] 16 CFR 310.3(a)(1). The Commission believes that the best practice to ensure the clear and conspicuous standard is met is to ''do the math'' for the consumer wherever possible. For example, where the contract entails 24 monthly installments of $8.99 each, the best practice would be to disclose that the consumer will be paying $215.76. In open-ended installment contracts it may not be possible to ''do the math'' for the consumer. In such a case, particular care must be taken to ensure that the cost disclosure is easy for the consumer to understand.

[93] NAAG at 15. Law enforcement actions against telemarketers selling foreign lottery chances to U.S. citizens include: *FTC* v. *Win USA Ltd.,* No. C98–1614Z (W.D. Wash filed Nov. 13, 1998) (brought by the FTC, the State of Arizona, and the State of Washington); and *FTC* v. *Windermere Big Win Int'l, Inc.,* No. 98CV 8066, (N.D. Ill. filed Dec. 16, 1998). Federal law prohibits the importing and transmitting of lottery materials by mail and otherwise, 18 U.S.C. 1301–1302; such schemes may

some courts may construe the term ''material'' narrowly, so as not to require a disclosure of the inherent illegality of such offers.

The Commission believes that the definition of ''material'' contained in the Rule, which comports with the Commission's Deception Statement and established Commission precedent,[94] is sufficiently clear and broad enough to encompass the illegality of goods or services offered. Therefore, no change is proposed with respect to this provision.

Section 310.3(a)(1)(iv)—Disclosures Regarding Prize Promotions

Section 310.3(a)(1)(iv) requires that, in any prize promotion, a telemarketer must disclose the odds of being able to receive the prize, that no purchase or payment is required to win a prize or participate in a prize promotion, and the no purchase/no payment method of participating in the prize promotion. NCL suggested adding a disclosure that making a purchase will not improve a customer's chances of winning,[95] noting that this disclosure would be consistent with the requirements for direct mail solicitations under the Deceptive Mail Prevention and Enforcement Act (''DMPEA'').[96] The Commission has determined to add such a disclosure requirement, both in § 310.3(a)(1) (governing all telemarketing calls), and in § 310.4(d) (governing outbound telemarketing).

The Commission believes that this disclosure will ensure that consumers are not deceived. The legislative history of the DMPEA suggests that without such a disclosure, many consumers reasonably interpret the overall presentation of many prize promotions to convey the message that making a purchase will enhance their chances of winning the touted prize.[97] This message is likely to influence these consumers' purchasing decisions, inducing them to purchase a product or service they are otherwise not interested in purchasing just so they can become winners. For this reason, it is important that entities using these promotions take particular care to dispel deception by disclosing that a purchase will not enhance the chance of winning.

Section 310.3(a)(1)(vi)—Disclosures in the Sale of Credit Card Protection

The current TSR does not address telemarketing of credit card protection. NCL recommended that the Commission amend the Rule to do so, specifically to prohibit worthless credit card loss protection plans.[98] NCL reports that fraudulent solicitations for credit card loss protection plans ranked 9th among the most numerous complaints to the NFIC in 1999.[99] The Commission's complaint-handling experience is consistent with that of NCL. Credit card loss protection plans ranked 12th among the most numerous complaints received by the Commission during fiscal year 2000 (October 1, 1999–September 30, 2000). NCL's statistics also showed that these schemes disproportionately affected older consumers: over 71% of the complaints about these schemes were from consumers over 50 years of age.[100]

Telemarketers of credit card loss protection plans represent to consumers that they will protect or otherwise limit the consumer's liability if his or her credit card is lost or stolen,[101] but frequently misrepresent themselves as being affiliated with the consumer's credit card issuer, or misrepresent either affirmatively or by omission that the consumer is not currently protected against credit card fraud, or that the consumer has greater potential legal liability for unauthorized use of his or her credit cards than he or she actually does under the law.[102] Both the Commission and the State Attorneys General have devoted major resources to bringing cases that challenge the deceptive marketing of credit card loss protection plans as violations of the Rule.[103]

To address the deception that frequently characterizes the sale of credit card loss protection plans, the Commission believes consumers need disclosure of information about existing protections afforded by Federal law. Deception occurs if, first, there is a representation, omission, or practice that, second, is likely to mislead consumers acting reasonably under the circumstances, and third, the representation, omission, or practice is material.[104] Unscrupulous sellers and telemarketers of credit card protection create the impression, by omission and

also violate anti-racketeering laws relating to gambling, 18 U.S.C. 1952–1953, 1084.

[94] *Cliffdale Assocs., Inc.,* 103 F.T.C. 110, 165, *appeal dismissed sub nom., Koven v. F.T.C.,* No. 84–5337 (11th Cir. 1984); *Thompson Medical Co.,* 104 F.T.C. 648 (1984), *aff'd* 791 F.2d 189 (D.C. Cir. 1986).

[95] *See* NCL at 9. Although this suggestion was made with respect to § 310.4(d), governing oral disclosures required in outbound telemarketing calls, the rationale and purpose of the proposed disclosure applies with equal force to all telemarketing, as covered by § 310.3(a). *See also* the discussion, below, in the section on sweepstakes disclosures within the analysis of § 310.4(d).

[96] *Id.* The Deceptive Mail Prevention and Enforcement Act of 1999 is codified at 39 U.S.C. 3001(k)(3)(A)(II). In this regard, it is noteworthy that the Direct Marketing Association's Code of Ethics advises that ''[n]o sweepstakes promotion, or any of its parts, should represent * * * that any entry stands a greater chance of winning a prize than any other entry when this is not the case.'' ''The DMA Guidelines for Ethical Business Practice,'revised Aug. 1999, accessible online at http://www.the-dma.org/library/guidelines/dotherightthing.shtmlt23 (Article #23, Chances of Winning).

[97] Moreover, Publishers Clearing House (''PCH'') recently agreed to settle an action brought by 24 States and the District of Columbia alleging, among other things, that the PCH sweepstakes mailings deceived consumers into believing that their chances of winning the sweepstakes would be improved by buying magazines from PCH. As part of the settlement, PCH agreed to include disclaimers in its mailings stating that buying does not increase the recipient's chances of winning (and to pay $18.4 million in redress). In 2001, PCH agreed to pay $34 million in a settlement with the remaining 26 States. *See, e.g., Missouri ex rel. Nixon* v. *Publishers Clearing House,* Boone County Circuit Court, No. 99 CC 084409 (2001); *Ohio ex rel. Montgomery* v. *Publishers Clearing House,* Franklin County Court of Common Pleas, No. 00CVH–01–635 (2000). Similarly, in 1999, American Family Publishers (''AFP'') settled several multi-state class actions that alleged the AFP sweepstakes mailings induced consumers to buy magazines to better their chances of winning a sweepstakes. The original suit, filed by 27 States, was settled in March 1998 for $1.5 million, but was reopened and expanded to 48 States and the District of Columbia after claims that AFP violated its agreement. The State action was finally settled in August 2000 with AFP agreeing to pay an additional $8.1 million in damages. See, *e.g., Washington* v. *American Family Publishers,* King County Superior Court, No. 99–09354–2 SEA (2000). *See also,* U.S. Senate, ''Deceptive Mail Prevention and Enforcement Act,'' (1st Sess. 1999), Sen. Rep. No. 106–102; and U.S. House of Representatives, ''Deceptive Mail Prevention and Enforcement Act,'' (1st Sess. 1999), H. Rep. No. 106–431.

[98] NCL at 10.

[99] NCL at 10.

[100] NCL at 16.

[101] Credit card loss protection plans are distinguished from credit card registration plans, in which consumers pay a fee to register their credit cards with a central party, and that party agrees to contact the consumers' credit card companies if the consumers' cards are lost or stolen.

[102] NCL at 10. *See, e.g., FTC* v. *Universal Mktg. Svcs., Inc.,* No. CIV–00–1084L (W.D. Okla. filed June 20, 2000); *FTC* v. *NCCP Ltd.,* No. 99 CV–0501 A(Sc) (W.D.N.Y. filed July 22, 1999); *South Florida Business Ventures,* No. 99–1196–CIV–T–17F (M.D. Fla. filed May 24, 1999); *Tracker Corp. of America,* No. 1:97–CV–2654–JEC.

[103] *See, e.g., FTC* v. *Consumer Repair Svcs., Inc.,* No. 00–11218 (C.D. Cal. filed Oct. 23, 2000); *FTC* v. *Forum Mktg. Svcs., Inc.,* No. 00 CV 0905C (W.D.N.Y. filed Oct. 23, 2000); *FTC* v. *1306506 Ontario, Ltd.,* No. 00 CV 0906A (SR) (W.D.N.Y. filed Oct. 23, 2000); *FTC* v. *Advanced Consumer Svcs.,* No. 6–00–CV–1410–ORL–28–B (M.D. Fla. filed Oct. 23, 2000); *Capital Card Svcs., Inc.* No. CIV 00 1993 PHX ECH (D. Ariz. filed Oct. 23, 2000); *FTC* v. *First Capital Consumer Membership Svcs, Inc.,* Civil No. 00–CV–0905C(F) (W.D.N.Y. filed Oct. 23, 2000); *Universal Mktg. Svcs., Inc.,* No. CIV–00–1084L; *FTC* v. *Liberty Direct, Inc.,* No. 99–1637 (D. Ariz. filed Sept. 13, 1999); *FTC* v. *Source One Publications, Inc.,* No. 99–1636 PHX RCP (D. Ariz. filed Sept. 14, 1999); *FTC* v. *Creditmart Fin. Strategies, Inc.,* No. C99–1461 (W.D. Wash. filed Sept. 13, 1999); *NCCP Ltd.,* No. 99 CV–0501 A(Sc); *South Florida Business Ventures,* No. 99–1196–CIV–T–17F; *FTC* v. *Bank Card Sec. Ctr., Inc.,* No. 99–212–Civ–Orl–18C (M.D. Fla. filed Feb. 26, 1999); *Tracker Corp. of America,* No. 1:97–CV–2654–JEC.

[104] *Cliffdale Assocs.,* 103 F.T.C. at 165.

affirmative misrepresentation, that without the protection they offer, consumers' liability for unauthorized purchases is unlimited. In fact, Federal law limits this liability to $50.[105] This is obviously a material fact, since consumers would not likely purchase protection that duplicates free protection the law already provides them. Yet laypersons may be unaware of this feature of Federal law, and are not unreasonable to interpret the sales pitch of unscrupulous sellers and telemarketers of credit card protection to mean that unless they purchase this protection, a cardholder is exposed to unlimited liability. Therefore, omission of this material information in the context of a sales pitch for such protection is deceptive, and violates section 5 of the FTC Act.

Thus, based on the record compiled in this proceeding and on its law enforcement experience, the Commission believes that credit card loss protection plans—like prize promotions, advance fee loan offers, recovery services, and credit repair—are so commonly the subject of telemarketing fraud complaints and have caused such substantial injury to consumers, particularly the elderly, that it is warranted to modify the Rule to include specific provisions to address this problem.[106] Therefore, the Commission proposes to add new § 310.3(a)(1)(vi), which would require the seller or telemarketer of such plans to disclose, before the customer pays, the $50 limit on a cardholder's liability for unauthorized use of a credit card pursuant to 15 U.S.C. 1643. The requirement that sellers of such plans provide consumers with the material information about statutory limitations on a cardholder's liability for unauthorized charges will ensure that consumers have the information necessary to evaluate the worth of the plan and provide law enforcement with the necessary tools to identify and combat fraudulent credit card protection plans.

Other Recommendations by Commenters Regarding Disclosure Requirements

Several commenters addressed issues related to the timing of disclosures.[107] In general, the commenters agreed that disclosures are most meaningful if customers receive them in time to make a ''truly informed buying decision.'' [108] This premise was endorsed by the Commission in the initial rulemaking when it noted that the intent of the Rule was to have disclosures given ''so as to be meaningful to a customer's purchase decision.'' [109] In this regard, the Commission noted that, when a seller or telemarketer chooses to use written disclosures, ''any outbound telephone call made after written disclosures have been sent to customers must be made sufficiently close in time to enable the customer to associate the telephone call with the written document.'' [110]

Commenters raised three specific concerns regarding the timing of disclosures: the appropriate timing of required disclosures in preacquired account telemarketing; situations where disclosures are made only in the verification portion of a call, rather than in the earlier sales pitch; and the appropriate timing of required disclosures in dual or multiple purpose calls. The first of these concerns—the appropriate timing of disclosures in preacquired account telemarketing—is addressed in the discussion of proposed § 310.4(a)(5), which bans the receipt of a consumer's billing information from any source other than the consumer. The other two concerns regarding the timing of disclosures—disclosures during the verification portion of the call and disclosures in multiple purpose calls—are each discussed below, as is the recommendation, advanced by some commenters, that the Commission allow some disclosures to be made in writing.

Disclosures in the Sales and Verification Portions of Calls. NAAG expressed concern about the failure of some telemarketers to make the disclosures required by § 310.3(a)(1)—especially the disclosure of total cost—during the sales portion of the call, instead making these disclosures during the verification portion of the call, after payment information has already been discussed and assent to the transaction has already occurred.[111] NAAG noted that when telemarketers make disclosures only during the verification portion of the call, consumers are deprived of the opportunity to receive meaningful disclosures at an appropriate time.[112] NAAG and Texas recommended that the total cost be disclosed before any payment information is discussed, and that the total cost be stated during both the sales and verification portions of the call.[113]

As discussed above, the Rule requires that the disclosures in § 310.3(a)(1) be made before the customer pays, which means before the telemarketer comes into possession of the customer's billing information.[114] The disclosures required by § 310.3(a)(1), including disclosure of the total cost of the goods or services offered, must be made *before* the telemarketer receives information that will enable him or her to bill charges to the consumer. These disclosures would logically occur during the sales portion of the call, before the consumer has assented to the purchase by providing billing information. A verification process is precisely what the term implies: corroboration of a contract that has already been formed—of the consumer's assent to the purchase. It is an opportunity to ensure that the billing

[105] Under § 133 of the Consumer Credit Protection Act, the consumer's liability for unauthorized charges is limited to $50. 15 U.S.C. 1643.

[106] The Commission has not proposed to prohibit as an *abusive* practice the requesting or receiving of payment for credit card protection before delivery of the offered protection—the approach adopted in the original TSR with respect to advance fee loan offers, recovery services, and credit repair. The Commission took that approach because there are no disclosures that could effectively remedy the problems that arise from the telemarketing of those illusory services; the harm to consumers could be averted only by specifying that the seller's performance of any of these three services must precede payment by the consumer. In the case of credit card protection, such a remedy seems unworkable, because the protection would come into play only upon a purchaser's loss of his or her card and/or incurrence of unauthorized charges. More importantly, in such an event, federal law would provide the protection at issue, regardless of whether the offered protection did or not. Moreover, since it is possible that a seller could non-deceptively offer—and consumers could wish to purchase—credit card protection that provides more than that which federal law provides, the Commission is reluctant to ban outright the sale of credit card protection. Thus, requiring disclosure of material information seems the appropriate remedy to cure the deception, coupled with a prohibition in proposed § 310.3(a)(2)(viii) against misrepresenting such protection.

[107] *See, e.g.,* AARP at 3–4; NAAG at 9–10; NACAA at 2.

[108] AARP at 4.

[109] 60 FR at 43846.

[110] *Id.*

[111] *See* NAAG at 10; Texas at 2. In the original rulemaking, the initially proposed Rule included a requirement that a telemarketer repeat certain disclosures if verification occurred. 60 FR 8313, 8331 (Feb. 14, 1995) (citing the original proposed Rule § 310.4(d)(2)). The Commission later deleted this requirement after receiving numerous comments from industry representatives who argued that such a requirement would be ''unnecessary and unduly burdensome, requiring duplicative disclosures that would add to the cost of the call and annoy potential customers.'' 60 FR 30406, 30419 (June 8, 1995). The Commission finds nothing in the Rule review record to contradict its earlier determination, and therefore, declines to propose a requirement to make a second disclosure of total cost in the verification portion of the call. Of course, there is nothing in the Rule that would preclude a seller or telemarketer from making the required disclosures in the sales portion of the call and then voluntarily repeating those disclosures during the verification process.

[112] *See* NAAG at 9.

[113] *See id.* at 8, 10 (noting that the failure to disclose the total cost of the contract is common in magazine subscription sales when a telemarketer states only the weekly price for a subscription, rather than the total cost for the entire term); Texas at 2.

[114] 60 FR at 43846.

information received from the consumer is correct. It is *not* the appropriate time for disclosure of additional material information that a consumer needs to make a decision whether to enter into the transaction in the first place. Disclosure of previously undisclosed information in a ''verification'' comes too late for it to be of value to consumers, or to satisfy the requirements of the Rule. Thus, a telemarketer or seller who does not make the required disclosures until the verification portion of the call has violated the Rule.

Dual or Multiple Purpose Calls. In a dual or multiple purpose telemarketing call, there are both sales and non-sales objectives, such as when a telemarketer calls to inquire about a customer's satisfaction with a particular good or service already purchased, and then proceeds to offer additional goods or services.[115] Both NACAA and NAAG suggested that the Rule be clarified to require that, in such dual or multiple purpose calls, the required oral disclosures be made in the initial portion of the call, and that total cost also be disclosed in that initial portion.[116] These recommendations are considered below in the discussion of proposed changes to § 310.4(d).

Written versus oral disclosures. In its Request for Comment on the Rule, the Commission asked for information regarding the burdens, if any, the disclosure requirements have placed on sellers and telemarketers.[117] Reese noted that ''(d)isclosures associated with sales increase the length of a sales presentation by factors ranging from 10% to 50%,'' and suggested that the burden on industry could be reduced by allowing timely written disclosures to complement shorter oral disclosures under the Rule.[118] On the other hand, ARDA expressed the view that the current disclosures are not unreasonably burdensome.[119]

In response to the recommendation that written disclosures be allowed, the Commission notes that the Rule's requirement that disclosures regarding material terms of the offer be made before the customer pays does not preclude a telemarketer from providing these disclosures in writing, should the telemarketer choose to do so.[120] In the Statement of Basis and Purpose, the Commission noted in this regard that ''[t]hese disclosures may be made either orally or in writing.'' [121] Therefore, there is no need to modify this provision of the Rule in this regard.

Section 310.3(a)(2)—Prohibited Misrepresentations in the Sale of Goods and Services

Section 310.3(a)(2) prohibits a seller or telemarketer from misrepresenting certain material information in a telemarketing transaction involving the sale of goods or services. These include: Total cost, any material restrictions, and any material aspect of the performance, efficacy, nature, or central characteristics of the goods or services offered; any material aspect of the seller's refund policy; any material aspect of a prize promotion; any material aspect of an investment opportunity; and a seller's or telemarketer's affiliation with, or endorsement by, any governmental or third-party organization.[122]

MPA, the only commenter who directly addressed this section in its comment, stated that it ''wholeheartedly supports'' the provision, noting that it is in the best interests of legitimate firms that all telemarketing calls include full and accurate disclosures.[123] Therefore, the only proposed modification to § 310.3(a)(2) is two minor wording changes necessitated by the amendments to the Telemarketing Act contained in section 1011 of the USA PATRIOT Act. First, the phrase ''in the sale of goods or services'' has been added to § 310.3(a)(2) to clarify the intended scope of that provision. Newly proposed § 310.3(d) lists prohibited misrepresentations in the context of the solicitation of charitable contributions. Second, the language in § 310.3(a)(2)(vii) has been modified to read: ''A seller's or telemarketer's affiliation with, or endorsement or sponsorship by, any person or government entity'' to conform with the new analogous provision proposed in § 310.3(d)(8).

Section 310.3(a)(2)(viii)—Credit Card Loss Protection Plans

The current TSR does not include prohibitions regarding the sale of credit card protection. As discussed above, NCL, citing the numerous complaints it receives, recommended that the Commission revise the Rule to address the telemarketing of credit card loss protection plans.[124] The Commission's complaint-handling and law enforcement experience confirms the points made in NCL's comments. Telemarketers of credit card loss protection plans represent to consumers that they will protect or otherwise limit the consumer's liability if his or her credit card is lost or stolen, but frequently misrepresent themselves as being affiliated with the consumer's credit card issuer,[125] or misrepresent either affirmatively or by omission that the consumer is not currently protected against credit card fraud, or that the consumer has greater potential legal liability for unauthorized use of his or her credit cards than he or she actually does under the law.

In addition to the new requirement proposed in § 310.3(a)(1)(vii) to disclose material information about existing protections afforded by federal law, the Commission proposes to add to the Rule a prohibition against misrepresenting that any customer needs offered goods or services to provide protections a customer already has pursuant to section 133 of the Consumer Credit Protection Act, 15 U.S.C. section 1643, which limits a cardholder's liability for unauthorized charges to $50.[126]

Deception occurs if, first, there is a representation, omission, or practice that, second, is likely to mislead consumers acting reasonably under the circumstances, and third, the representation, omission, or practice is material.[127] Unscrupulous sellers and telemarketers of credit card protection frequently misrepresent, either expressly or by implication, that without the protection they offer, consumers' liability for unauthorized purchases is unlimited. This is obviously a material fact, since consumers would not likely purchase

[115] This sales practice was identified and explained in the original Rule's Statement of Basis and Purpose. 60 FR at 43856.

[116] *See* NAAG at 6–8; NACAA at 2.

[117] 65 FR 10428, 10431; Question 10(f).

[118] Reese at 5.

[119] *See* ARDA at 2.

[120] Nevertheless, in outbound telemarketing calls, four prompt *oral* disclosures must be made: (1) The identity of the seller; (2) that the purpose of the call is to sell goods or services; (3) the nature of the goods or services; and (4) disclosures about any prize promotion being offered. § 310.4(d).

[121] 60 FR at 43846. The Commission further noted that it intends, by requiring ''clear and conspicuous'' disclosures, that ''any outbound telephone call made after written disclosures have been sent to consumers must be made sufficiently close in time to enable the customer to associate the telephone call with the written document.'' *Id.*

[122] 16 CFR 310.3(a)(2).

[123] MPA at 7–8.

[124] NCL at 10.

[125] This practice violates § 310.3(a)(2(vii), which prohibits misrepresenting a seller's or telemarketer's affiliation with any third-party organization.

[126] This approach parallels the TSR's treatment of cost and quantity of goods (§§ 310.3(a)(1)(i) and 310.3(a)(2)(i)), material restrictions, limitations, or conditions (§§ 310.3(a)(1)(ii) and 310.3(a)(2)(ii)), refund policy (§§ 310.3(a)(1)(iii) and 310.3(a)(2)(iv)), and prize promotions (§§ 310.3(a)(1)(iv) & (v) and 310.3(a)(2)(v)). In each case, material facts must be disclosed, and misrepresentations are prohibited.

[127] *Cliffdale Assocs.,* 103 F.T.C. at 165.

protection that duplicates free protection the law already provides them. Yet laypersons may be unaware of this feature of federal law, and reasonably interpret the sales pitch of unscrupulous sellers and telemarketers of credit card protection to mean that unless they purchase this protection, a cardholder is exposed to unlimited liability. Therefore, this is a material misrepresentation, and is deceptive, in violation of section 5 of the FTC Act. Accordingly, the Commission proposes to add new § 310.3(a)(2)(viii), which would prohibit misrepresenting that any customer needs offered goods or services in order to have protections provided pursuant to 15 U.S.C. 1643.

Section 310.3(a)(3)—Express Verifiable Authorization

Section 310.3(a)(3) of the Rule requires that a telemarketer obtain express verifiable authorization in sales involving payment by demand drafts or similar negotiable paper, and provides that authorization will be deemed verifiable if any of three specified means are employed to obtain it: (1) Express written authorization by the customer, including signature; (2) express oral authorization that is tape recorded and made available upon request to the customer's bank; or (3) written confirmation of the transaction, sent to the customer before submission of the draft for payment. If the telemarketer chooses to use the taped oral authorization method, the Rule requires the telemarketer to provide tapes evidencing the customer's oral authorization, including an explanation of the number, date(s) and amount(s) of payments to be made, date of authorization, and a telephone number for customer inquiry that is answered during normal business hours.[128]

The Commission proposes to amend the express verifiable authorization provision. The proposed Rule retains the concept that it is a deceptive practice and a rule violation to obtain or submit for payment a check, draft, or other form of negotiable paper drawn on a person's checking, savings, share, or similar account, without that person's express verifiable authorization; however, the proposed Rule extends the provision to specify that is a deceptive practice and a Rule violation to submit *billing information* for payment without the customer's express verifiable authorization when the method of payment does not have the protections provided by, or comparable to those available under, the Fair Credit Billing Act (''FCBA'') and the Truth in Lending Act (''TILA'')(such as is the case with checks, drafts, or other forms of negotiable paper). By expanding the express verifiable authorization provision to cover billing methods besides demand drafts, the Rule would provide protections for consumers in a much larger class of transactions where an unauthorized charge is likely to present a particular hardship to the consumer because of the lack of TILA and FCBA protections.

In addition to expanding the scope of § 310.3(a)(3) to require express verifiable authorization for additional payment methods, the proposed Rule also requires that the customer must receive additional information in order for authorization to be deemed verifiable: the name of the account to be charged (*e.g.*, ''Mastercard,'' or ''your XYZ Mortgage statement'') and the account number, which must be recited by either the consumer or the telemarketer.

The Commission also proposes to delete § 310.3(a)(3)(iii), which allows a seller or telemarketer to obtain express verifiable authorization by confirming a transaction in writing, provided the confirmation is sent to the customer prior to the submission of the customer's billing information for payment. This change would leave the two other methods of authorization—written authorization before a charge is placed and taped oral authorization—available for use by sellers and telemarketers.

Finally, pursuant to section 1011 of the USA PATRIOT Act, the Commission proposes a global revision throughout § 310.3(a)(3)—specifically, in every instance where the word ''customer'' (including the possessive form) occurs, the phrase ''or donor'' (again, including the possessive form, where appropriate) has been added. This change brings within the coverage of the express verifiable authorization requirement all situations where a telemarketer accepts payment of a solicited charitable contribution through a payment method that does not impose a limitation on liability for unauthorized charges nor provide for dispute resolution procedures pursuant to, or comparable to, those available under the FCBA and the TILA.

The Commission received several comments regarding § 310.3(a)(3), and discussed the topic of express verifiable authorization extensively at the July 2000 Forum.[129] MPA stated that this provision strikes an appropriate balance, allowing telemarketers to compete fairly with other point-of-sale providers while still protecting customers' checking accounts.[130] Law enforcement agencies and consumer protection groups, however, recommended several changes to the provision. Each recommendation and the Commission's reasoning for accepting or rejecting it is discussed below.

Express Verifiable Authorization When Using Novel Payment Methods. Some commenters suggested that the TSR be amended to ensure that consumers are protected when using any of the ever-increasing array of payment methods to pay for telemarketing transactions.[131] NCL suggested that emerging payment methods may necessitate Rule changes to safeguard consumers using these methods from unauthorized charges.[132] NAAG expressed concern that, given the increasing number of available payment options, consumers' authorization extend not only to the amount of the charge, but also to the payment method to be used.[133]

As examples of emerging payment methods, commenters and attendees of the July Forum cited the increasing prevalence and use of debit cards,[134] the development of electronic payment systems,[135] and the growing use, by

[128] Section 310.3(a)(3)(iii)(A) requires that all information required to be included in a taped oral authorization be included in any written confirmation of the transaction.

[129] *See generally* LSAP at 4; MPA at 8; NAAG at 20; NCL at 5, 10–11, 13; Rule Tr. at 131–190.

[130] MPA at 8.

[131] *See* NCL at 5; NAAG at 20.

[132] *See* NCL at 5 (suggesting the Rule be expanded to ''protect consumers from abuses and provide better oversight of vendors who participate in new electronic payment systems'').

[133] *See* NAAG at 20 (recommending that ''consumers' agreement to any participant form of payment be expressly demonstrated and subject to verification'').

[134] *See* NCL at 5 (''Debit cards accounted for one percent of the fraudulent telemarketing transactions reported to the NFIC in 1999 and this form of payment is likely to grow as more customers are issued debit cards and grow more comfortable using them.''); Rule Tr. at 132–133 (NCL noting a ''dramatic increase in debit card usage in the last several years;'' and that debit cards accounted for three percent of the fraudulent telemarketing transactions reported to NFIC in the first half of 2000.). *See also*, John Reosti, *Debit Cards Seen as No Threat to Credit Card Revenues*, The American Banker, (June 29, 2000), p. 11A (noting that the popularity of debit cards is increasing, with some predicting that debit cards will outpace credit cards as a payment method by 2005).

[135] *See, e.g.*, NCL at 5 (noting that the growth in electronic commerce has led to the development of new forms of payment, such as ''cyberwallets''). ''Cyberwallets'' provide secure access to a customer's existing bank or credit card accounts via the Internet, and are now offered by many companies, such as Visa and Mastercard. *See www.visa.com/pd/ewallet/main.html; www.mastercard.com/shoponline/e-wallets/*. Other new electronic access devices include stored value cards (SVCs) and smartcards, which allow customers to purchase goods or services using money ''loaded'' onto the cards, which contain

unrelated vendors, of the billing and collection systems of mortgage or utility companies to bill and collect for telemarketing purchases.[136] When asked to predict what additional payment methods might likely emerge in the coming years, industry representatives at the July Forum noted that new technologies have already expanded the range of payment options. For example, the DMA representative noted that a small percentage of DMA telemarketer members already offer to accept payment via the Internet.[137] Another Forum participant predicted ''the continued growth of debit mechanisms,'' including not only debit cards, but electronic benefit transfer cards that would, for example, enable recipients of Social Security benefits to make payments using an access card tied to those benefits.[138] Still another participant noted the development of technology that would enable a consumer to purchase goods and services advertised on television with a simple click of a remote control device, with the resulting charge billed to the subscriber's cable account.[139]

In advancing their argument, those commenters who advocated expanding the express verifiable authorization provision to cover novel payment methods suggested that consumers may not be aware that they can be billed for a telemarketing purchase via some of these methods (such as on their utility and mortgage bills). This concern is analogous to the concerns articulated about deception in the use of demand drafts in the original rulemaking—concerns which led the Commission to determine that consumers' unfamiliarity with demand drafts could lead them unwittingly to provide their bank account numbers to a telemarketer without realizing that funds could be withdrawn in the absence of a signed check.[140] Unaccustomed to this new type of transaction, consumers had no reason to expect that funds could be debited from their checking accounts unless they wrote and signed a check. But telemarketers, through omissions or affirmative misrepresentations, were inducing consumers to divulge their checking account numbers, with the result that funds were debited from their accounts. Thus, the Commission determined that to dispel consumers' false expectations about their checking account numbers, disclosure of material facts about how telemarketers would use the account information they were being asked to divulge was necessary. Thus, § 310.3(a)(3) of the original TSR provides that it is a deceptive practice and a rule violation to obtain or submit for payment a check, draft, or other form of negotiable paper drawn on a person's checking, savings, share, or similar account, without that person's express verifiable authorization.[141] Section 310.3(a)(3) also established ''safe harbor'' disclosure procedures to use in obtaining express verifiable authorization

The Commission believes that the increased availability and use of new payment methods necessitates expanding the Rule's express verifiable authorization provision to cover those new methods. The emergence of novel and, for the consumer, unexpected billing and collection systems for telemarketing purchases has brought an attendant rise in consumer complaints about unauthorized charges for telemarketing purchases on, among other things, mortgage accounts and utility bills. The Commission believes that deception is occurring in connection with telemarketers' use of new billing and collection systems. The rationale which supported the original requirement for express verifiable authorization in the use of demand drafts pertains with equal force to other unconventional payment methods not covered by the TILA and FCBA. Consumers have no reason to anticipate that their accounts can be debited or charged without their signature, and they may be induced to divulge their billing information on the basis of this misperception. To obviate deception on this issue, consumers need disclosure of material facts about how telemarketers will use the billing information they are being asked to divulge. Finally, an additional factor supporting the expanded coverage of the express verifiable authorization provision to novel payment systems is that many of the emerging payment systems cited by commenters in this proceeding lack chargeback protection and dispute resolution rights, as well as limited customer liability in the event of unauthorized charges. As was the case with demand drafts, the Commission believes that express verifiable authorization for novel payment systems will ensure that such systems are only used when consumers clearly agree to that use.

The Commission believes that requiring express verifiable authorization when novel payment systems are used to bill and collect for a telemarketing purchase will remedy the deceptive practices often associated with the growth of new payment systems. Therefore, the Commission proposes to amend § 310.3(a)(3) to require that the consumer's express verifiable authorization be obtained when payment is to be made by any method that ''does not impose a limitation on the customer's liability for unauthorized charges nor provide for dispute resolution procedures pursuant to, or comparable to those available under, the Fair Credit Billing Act and the Truth in Lending Act, as amended.''

The proposed Rule retains the safe harbor that calls for the customer receiving the following information as evidence of oral authorization: the number, date(s) and amount(s) of payments, a telephone number for customer inquiry, and the date of the customer's oral authorization. In addition, the proposed Rule would call for another piece of information to be included in any taped oral authorization: Specific identification or recitation of the name of the specific account and the account number to be charged in the particular transaction. This material information will ensure that consumers are aware of the specific account against which the charge or debit will be placed.

The proposed Rule deletes the term ''draft'' to reflect the expanded application of the provision to forms of payment other than demand drafts; and, for the same reason, the term ''payor'' has been replaced by the term ''customer.''

Finally, the proposed Rule eliminates § 310.3(a)(3)(iii), which deemed verifiable any authorization obtained by

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embedded microchips to track the cards' value. *See* Janine S. Hiller and Don Lloyd Cook, *From Clipper Ships to Clipper Chips: The Evolution of Payment Systems For Electronic Commerce*, J.L.& Com., Fall, 1997, p. 53, 79–81. Visa Cash is one example of a stored value card that can be used in lieu of cash for purchases. *See www.visa.com/pd/cash/main.html*. Mastercard offers a smartcard product. *See www.mastercard.com/ourcards/smartcard/*. ''Electronic cash'' services, using prepaid accounts that can be drawn against for making online purchases, are also under development. *See* Stacy Collett, ''New Online Payment Options Emerging,'' *www.cnn.com/2000/TECH/computing/02/03/pay.online.options.idg*.

[136] *See* LSAP at 4; NAAG at 10, 20; NCL at 5, 10. For example, buyers' club programs can be billed to customers' mortgage statements or telephone or electricity bills. The growth of this type fo non-traditional billing has led to complaints regarding unauthorized charges from customers unfamiliar with such billing arrangements.

[137] Rule Tr. at 180.

[138] *Id.* at 183.

[139] *Id.* at 185. Such a transaction could occur without any telephone contact between the seller and customer, thus making it outside the scope of this Rule. However, this technology could also be used in conjunction with telemarketing, and thus merits inclusion here.

[140] 60 FR at 43850.

[141] The Commission was persuaded that *verifiable* authorization was necessary for demand drafts because demand drafts lacked chargeback protection and dispute resolution rights, and because of the risk that a consumer's bank account could be drained by unauthorized charges.

written confirmation of the transaction, sent to the customer before submission of the draft for payment. Commenters and participants at the July Forum made clear that written confirmation prior to the submission of a customer's billing information for payment is seldom, if ever, used as a method of express verifiable authorization.[142] Moreover, the Commission's law enforcement record provides ample evidence that when this method is used, it is subject to abuse.[143] Given that the method of authorization in § 310.3(a)(3)(iii) is used infrequently, and that complaints received by the Commission suggest that it has been subject to abuse by those telemarketers who employ it, the Commission proposes to delete this provision from the Rule.

In proposing to expand the coverage of the express verifiable authorization provision to include novel payment methods beyond demand drafts, the Commission has considered the effect this change would have on telemarketing businesses. Although the proposed change might be expected to result in additional costs to some telemarketers, the record reflects that telemarketers already commonly tape the customer's oral authorization in all calls in which a sale is made.[144] Given the apparent prevalence of taping, the Commission believes that any additional burden on telemarketers will be minimal.

Other Recommendations by Commenters Regarding Authorization

Some commenters suggested that the Rule restrict the allowable methods of authorization in certain circumstances. For example, some commenters recommended requiring written authorization when funds will be withdrawn from a customer's bank account or when a telemarketer has preacquired billing information.[145] These commenters assert that written authorization is necessary when a consumer's bank account is being accessed by a telemarketer because consumers have limited recourse when funds are misappropriated from their bank accounts.[146]

Requiring Written Authorization for Preacquired Account Telemarketing. Some commenters expressed the view that in situations when the telemarketer possesses preacquired billing information, the Rule should require the telemarketer to obtain the consumer's written authorization. In this way, the consumer would have a readily recognizable means to signal assent to a purchase.[147] NAAG argued that such a means of ensuring the customer's assent is particularly necessary where an imbalance of information exists because the telemarketer, often unbeknownst to the consumer, has the means to charge the customer's account without ever seeking permission to do so.[148]

As outlined below, in the discussion of § 310.4(a)(5), the Commission proposes to prohibit as an abusive practice the receipt of a consumer's billing information from any source other than from the consumer. Therefore, the Commission declines to require written authorization in instances of preacquired account telemarketing.

Requiring Written Authorization to Withdraw Funds From a Customer's Checking Account. Some commenters urged the Commission to amend the Rule to prohibit any telemarketer from debiting a customer's bank account without the customer's written authorization.[149] In the original rulemaking, the Commission declined to adopt such a position, stating that:

> Requiring such prior written authorization could be tantamount to eliminating this emerging payment alternative. Moreover, the Commission believes that it would be inconsistent to impose upon demand drafts a more stringent authorization mechanism than that imposed on electronic funds transfers under the EFTA and Reg. E.[150]

The Commission reaffirms its reluctance to impose on demand drafts more stringent requirements than those imposed on electronic funds transfers.[151] Moreover, the Commission believes that the oral authorization alternative provided in § 310.3(a)(3)(ii) has proven sufficient to protect consumers against unauthorized access to their bank accounts, except, perhaps, in those cases where a fraudulent telemarketer has resorted to altering verification tapes, or has flouted the requirement of the provision altogether. The Commission believes that even a written authorization requirement would not solve such problems because a telemarketer willing to alter verification tapes might also be inclined to forge signatures, and one ignoring the current oral authorization procedure would be no more likely to follow a more stringent one. Therefore, the Commission rejects this proposal.

Section 310.3(a)(4)—Prohibition of False and Misleading Statements to Induce the Purchase of Goods or Services or a Charitable Contribution

Only MPA commented on this provision of the Rule, noting that its broad prohibition against false or misleading statements to induce the purchase of goods or services provided flexibility for law enforcement to address fraud, regardless of the method of payment used. The Commission has used this provision extensively in cases it has brought under the Rule and has determined that the provision should be retained unchanged.[152]

Pursuant to section 1011 of the USA PATRIOT Act, the Commission proposes to expand the coverage of this prohibition to encompass misrepresentations ''to induce a charitable contribution.'' No other revision is proposed.

Section 310.3(b)—Assisting and Facilitating

Section 310.3(b) prohibits a person from providing substantial assistance or support to any seller or telemarketer

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[142] *See* Reese at 5; Rule Tr. 116–118; 122.

[143] See, *e.g., FTC* v. *S.J.A. Society, Inc.*, No. 2:97cv472 (E.D. Va. filed May 12, 1997) (defendants sent consumers written ''confirmation'' of unauthorized debit payments). See also *FTC* v. *Diversified Mktg. Serv. Corp.*, No. 96–388 (W.D. Okla. filed Mar. 13, 1996); *FTC* v. *Winward Mktg., Ltd.*, et al., No. 96–cv–0615–FWH (N.D. Ga. filed Mar. 12, 1996).

[144] *See* Reese at 5 (stating that it is ''standard practice * * * to ask the buyer's permission to record all or part of a sale on tape, as a mutual protection and to allow for post-sale independent verification''); Rule Tr. at 116–118 (''* * * 100% of sales calls are taped, and not the call, the portion in which the agreement to purchase goods and services and the terms for that purchase are tape recorded. I don't have a client that doesn't insist on it right now.''), 122 (noting an increase in taping to ensure that consent has been provided and for use in any law enforcement investigation).

[145] AARP at 4; NAAG at 20 (suggesting that the Rule require written authorization when funds are withdrawn from bank account); *Id.* at 13 (suggesting that the Rule require written authorization when a telemarketer has preacquired billing information).

[146] AARP at 4; NAAG at 20.

[147] *See* AARP at 4; NAAG at 10.

[148] NAAG at 10.

[149] AARP at 4; NAAG at 20 (citing laws in Vermont and Kentucky that already require written authorization before a customer's bank account can be debited).

[150] 60 FR at 43851.

[151] In this regard, the TSR's express verifiable authorization provision is also consistent with the NACHA Operating Rules, which govern payments made through the Automated Clearing House system. *See* NACHA at 2; Rule Tr. at 131–186.

[152] The Commission has brought over eighty cases that included allegations under § 310.3(a)(4) since the Rule was enacted. *See, e.g., FTC* v. *Pacific Rim Pools Int'l,* No. C97–1748, (W.D. Wash. filed Nov. 7, 1997) (Order for Permanent Injunction and Final Judgment entered on Jan. 12, 1999); *FTC* v. *National Business Distribs. Co., Inc.,* No. 96–4470 (Mcx) JGD, (C.D. Cal. filed June 26, 1996) (Final Judgment and Order for Permanent Injunction entered on Jan. 24, 1997); *FTC* v. *Ideal Credit Referral Svcs. Ltd.,* No. C96–0874, (W.D. Wash. filed June 5, 1996) (Default Judgment and Order for Permanent Injunction and for Monetary Relief entered on Apr. 16, 1997); *FTC* v. *USA Credit Svcs., Inc.,* No. 96–639 J LSP, (S.C. Cal. filed Apr. 10, 1996) (Final Judgment and Order for Permanent Injunction and Other Equitable Relief entered on Mar. 20, 1997).

when that person knows or consciously avoids knowing that the seller or telemarketer is violating certain provisions of the Rule. Comments about this provision of the Rule were mixed. MPA asserted that the assisting and facilitating standard ''struck exactly the right balance,'' [153] while law enforcement and consumer advocacy groups were critical, reiterating many of the concerns they raised during the original rulemaking about the difficulty in meeting the Rule's scienter standard.[154]

The critics of the provision argued that the Rule's current standard—which requires showing that the individual or entity knew or consciously avoided knowing about the law violations—sets the standard too high, and should be changed to a ''knew or should have known'' standard.[155] They opined that the ''conscious avoidance'' standard is not used in other areas of enforcement and is a departure from legal authority under many State consumer protection statutes and under the FTC Act, where the ''knew or should have known'' standard is commonly accepted.[156] They further argued that a ''knew or should have known'' standard would make it easier for law enforcement to challenge the support system for cross-border fraud.[157]

The Commission has considered the recommendation to change the standard, but believes that the ''conscious avoidance'' standard is appropriate because the Rule creates potential liability to pay redress or civil penalties based on another person's violation of the Rule. The ''knew or should have known'' standard is appropriate where an alleged wrongdoer is liable to be placed under an administrative cease-and-desist order or conduct injunction in a district court order based on his or her own direct violation of the Rule. As noted in the Rule's Statement of Basis and Purpose, ''in a situation where a person's liability to pay redress or civil penalties for a violation of this Rule depends on the wrongdoing of another person, the ''conscious avoidance'' standard is correct.'' [158] However, the Commission invites additional comment on, and proposals for alternatives to, this provision in Section IX.

Section 310.3(c)—Credit Card Laundering

Section 310.3(c) prohibits credit card laundering. The few comments received concerning this section expressed strong support for the provision. ATA noted that the bright line this provision draws between legitimate and illegitimate business has made the Rule successful.[159] MPA stated that this provision strictly targets bad actors because legitimate companies would be able to establish relationships with credit card companies, leaving only illegitimate companies to violate this provision.[160] ATA agreed with MPA on this point, noting that stricter guidelines adopted by credit card companies for acceptable chargeback rates have further separated good from bad actors.[161]

The Commission's enforcement experience has demonstrated that § 310.3(c) can be a useful tool in pursuing fraudulent telemarketers and those who provide them credit card laundering services.[162] However, the Commission believes the provision's usefulness may be unduly restricted by the phrases ''(e)xcept as expressly permitted by the applicable credit card system,'' in the preamble to § 310.3(c), and ''when such access is not authorized by the merchant agreement or the applicable credit card system'' in § 310.3(c)(3). In the initial rulemaking proceeding, Visa and Mastercard urged that these limiting phrases be adopted to ensure that the Rule did not unduly restrict legitimate activity. In its enforcement activities, however, the Commission has sometimes met with unwillingness on the part of overseas affiliates or branches of credit card system operators, such as Visa and Mastercard, to corroborate whether the conduct of specific telemarketers and others providing assistance to telemarketers is allowable under the rules of the credit card system or the specific terms of the telemarketer's merchant agreement. The absence of such cooperation has, in some instances, hobbled law enforcement efforts to bring fraudulent telemarketers to justice.

As a result of concern about the enforceability of the original provision in the absence of the full cooperation of credit card system operators, the Commission has requested comment in Section IX on possible changes to this provision that would better facilitate law enforcement efforts.

The Commission proposes no changes to the text of § 310.3(c) pursuant to section 1011 of the USA PATRIOT Act. The proposed Rule, however, expands coverage of the § 310.3(c) prohibition on credit card laundering through modification of the definition of a key term used in this provision—''merchant.'' As discussed, the proposed definition would encompass persons authorized to honor or accept credit card payment, not only for the purchase of goods or services, but also for the payment of charitable contributions. The Telemarketing Act, as originally enacted, specifically identified as appropriate for rule coverage ''acts or practices of entities or individuals that assist or facilitate deceptive telemarketing, including credit card laundering.'' 15 U.S.C. 6102(a)(2). Neither the text nor the underlying rationale of section 1011 of the USA PATRIOT Act suggest that this provision should not be extended to reach instances where credit card laundering occurs in connection with charitable solicitations.

Section 310.3(d)—Prohibited Deceptive Acts or Practices in the Solicitation of Charitable Contributions, Donations, or Gifts

Section 1011(b)(1) of the USA PATRIOT Act mandates that the Commission include ''fraudulent charitable solicitations'' in the deceptive practices prohibited by the TSR. Accordingly, the Commission proposes a new section, 310.3(d), prohibiting specific material misrepresentations that have been alleged in Commission enforcement actions or those brought by FTC counterparts on the state level, or that have been prohibited by statute in one or more states. The new provision would prohibit misrepresentations of the following:

- The nature, purpose, or mission of any entity on behalf of which a charitable contribution is being requested;[163]

[153] MPA at 8.

[154] *See* NAAG at 6; NACAA at 2; Texas at 2.

[155] *Id.* Despite the high standard of proof set by the ''conscious avoidance'' standard, the Commission has successfully used the provision in a number of cases. *See, e.g., FTC* v. *Woofter Inv. Corp.,* No. CV–S–97–00515–LDG (RLH), (D. Nev. filed May 12, 1997) (Stipulated Order for Permanent Injunction and Final Judgment entered on Dec. 28, 1998); *FTC* v. *Ideal Credit Referral Svcs. Ltd.,* No. C96–0874, (W.D. Wash. filed June 5, 1996) (Default Judgment and Order for Permanent Injunction and for Monetary Relief entered on Apr. 16, 1997).

[156] *See* NAAG at 5–6; Texas at 2.

[157] *See* NACAA at 2; NAAG at 6; Texas at 2.

[158] 60 FR at 43852 (citations omitted).

[159] ATA at 4–5.

[160] MPA at 9.

[161] ATA at 4–5.

[162] *See, e.g., FTC* v. *Windermere Big Win Int'l, Inc.,* No. 98CV 8066, (N.D. Ill. filed Dec. 16, 1998); *FTC* v. *Pacific Rim Pools Int'l,* No. C97–1748, (W.D. Wash. filed Nov. 7, 1997) (Order for Permanent Injunction and Final Judgment entered on Jan. 12, 1999); *FTC* v. *Woofter Inv. Corp.,* No. CV–S–97–00515–LDG (RLH), (D. Nev. filed May 12, 1997) (Stipulated Order for Permanent Injunction and Final Judgment entered on Dec. 28, 1998).

[163] *See, e.g., FTC* v. *Baylis Co., Inc.,* No. 94–0017–S–LmB (D.C. Idaho filed Jan. 19, 1994) (misrepresented non-profit status); *FTC* v. *Marketing Twenty-One,* No. CV–S–94–00624–LDG (LRL) (D.C. Nev. filed July 13, 1994)

Continued

• That any charitable contribution is tax deductible in whole or in part;[164]

• The purpose for which any charitable contribution will be used; [165]

• The percentage or amount of any charitable contribution that will go to a charitable organization or to any particular charitable program after any administrative or fundraising expenses are deducted; [166]

• Any material aspect of a prize promotion including, but not limited to: the odds of being able to receive a prize; the nature or value of a prize; or that a charitable contribution is required to win a prize or to participate in a prize promotion;[167]

• In connection with the sale of advertising, the purpose for which the proceeds from the sale of advertising will be used; that a purchase of advertising has been authorized or approved by any donor; that any donor owes payment for advertising; or the geographic area in which the advertising will be distributed; [168] or

• A seller's or telemarketer's affiliation with, or endorsement or sponsorship by, any person or government.[169]

Each of these misrepresentations is an appropriate addition to the list of defined deceptive telemarketing practices prohibited in § 310.3 of the TSR, and inclusion of each in the TSR is necessary to prevent consumers solicited for charitable contributions from being deceived. Deception occurs if there is a representation, omission, or practice that is likely to mislead consumers acting reasonably under the circumstances and the representation, omission, or practice is material.[170] Where fundraising telemarketers falsely represent any of the matters enumerated in the proposed provision, donors are likely to be misled. False representations of material facts are likely to mislead.[171] This is so in the context of purchases of goods or services or other commercial transactions, and there is no material distinction that would render this principle any less valid in the context of charitable solicitations. Moreover, it is reasonable to interpret a fundraising telemarketer's representations about any of these matters to mean what they seem on their face to mean. Finally, in the Commission's enforcement experience, often such representations are express, and therefore presumptively material.[172] Even where the misrepresentations are implied, they would still likely influence a prospective donor's decision whether to make a contribution. Thus, misrepresentation of any of these seven categories of material information is deceptive, in violation of section 5 of the FTC Act.

D. Section 310.4—Abusive Telemarketing Acts or Practices

The Telemarketing Act authorizes the Commission to prescribe rules ''prohibiting deceptive telemarketing acts or practices and *other abusive telemarketing acts or practices*.''15 U.S.C. 6102 (a)(1)(emphasis added). The Act does not define the term ''abusive telemarketing act or practice.'' It directs the Commission to include in the TSR provisions addressing three specific ''abusive'' telemarketing practices, namely, for any telemarketer to: (1) ''Undertake a pattern of unsolicited telephone calls which the reasonable consumer would consider coercive or abusive of such consumer's right to privacy;'' (2) make unsolicited phone calls to consumers during certain hours of the day or night; and (3) fail to ''promptly and clearly disclose to the person receiving the call that the purpose of the call is to sell goods or services and make such other disclosures as the Commission deems appropriate, including the nature and price of the goods and services.'' 15 U.S.C. 6102(a)(3). The Act does not limit the Commission's authority to address abusive practices beyond these three practices legislatively determined to be abusive.[173] Accordingly, the Commission adopted a rule that addresses the three specific practices mentioned in the statute, and, additionally, five other practices that the Commission determined to be abusive under the Act.

Each of the three abusive practices enumerated in the Act implicates consumers' privacy. In fact, with respect to the first of these practices, the explicit language of the statute directs the FTC to regulate ''calls which the reasonable consumer would consider coercive or abusive of such consumer's *right to privacy*.'' 15 U.S.C.

(misrepresented purpose as soliciting contributions for non-existent entity named ''For the Children''); *FTC* v. *Voices for Freedom,* No. 92–1542–A (E.D. Va.. filed Oct. 21, 1991) (falsely obtained IRC 501(c)(3) status and misrepresented mission as assisting soldiers in Operation Desert Storm). *See also* Fla. Stat. ch. 496.415(7) (2000); Ariz. Rev. Stat. § 6561(3) (2001).

[164] *See, e.g., FTC* v. *Thadow, Inc.,* No. CV–S–95–75–HDM (LRL) (D.C. Nev. filed Jan. 25, 1995); *FTC* v. *United Holdings Group, Inc.,* No. CV–S–94–331–LDG (RLH) (D.C. Nev., filed April 5, 1994); *Marketing Twenty-One,* No. CV–S–94–00624–LDG (LRL). *See also* Minn Stat. Ann. § 309.556(1)(b) (West 2000).

[165] The Commission intends that term ''purpose'' be interpreted broadly to include, among other things, whether the charitable contribution would benefit any particular individual, group, or locality, as well the way in which these entities would be helped, such as by the provision of food, shelter, etc. *See, e.g., FTC* v. *Gold,* No. CV 99–2895 CBM (RZx) (C.D. Calif. filed Nov. 9, 1998) (misrepresenting that contributions would *inter alia,* support local firefighters, buy wheelchairs for veterans or fund parties for hospitalized children); *FTC* v. *Image Sales & Consultants, Inc.* No. 1:97 DV 0131 (N.D. Inc., filed Apr. 7, 1997); *FTC* v. *Saja,* No. CIV–97–0666 PHX sm (D.C. Ariz. filed Mar. 31, 1997) (misrepresenting that contributions would buy necessary equipment or fund death benefits for firefighters or law enforcement officers in the donors' local communities); *See also* Ariz. Rev. Stat. § 4406561(4), (5) (2001); Fla. Stat. ch. 496.415(3),(4) (2000); Md. Code. Ann. Business Regulations § 6–609, 611 (2000). *See also, California* v. *Jewish Educ. Ctr.,* No. 987396 (Super. Ct. Cal. filed Nov. 14, 1997) (misrepresenting that funds raised through car donations would support needy immigrant families). *See also* Ariz. Rev. Stat. § 6561(3) (2001); Ind. Code Ann. § 23–7–8–7 (Michie 2001); Md. Code Ann., Business Regulations § 6–610 (2000); N.M. Stat. Ann. § 57–22–6.3 (Michie 2001); N.Y. Exec. Law § 172–d (Consol. 2001).

[166] *See, e.g., Voices for Freedom,* No. 92–1542–A; *Gold,* No. SACV 98–968 LHM (EEx); *Baylis,* No. 94–0017–S–LmB; *Marketing Twenty-One. See also California* v. *Jewish Educ. Ctr. See also* Fla. Stat. ch. 496.415(8); N.Y. Exec. Law § 172–d(4) (Consol. 2001); Pa. Stat. Ann. tit. 10 § 162.15(A)(9) (West 2000).

[167] *See, e.g., United Holdings Group, Inc.,* No. CV–S–94–331; *Marketing Twenty-One* (misrepresented value of prizes being offered in exchange for contributions of $700 to $1500); *FTC* v. *NCH, Inc.,* No. CV–S–94–00138–LDG (LRL) (D.C. Nev. filed July 13, 1994) (misrepresented that donors would receive a specific prize in return for their contribution); *FTC* v. *International Charity Consultants, Inc.,* No. CV–S–94–00195–DWH (LRL) (D.C. Nev. filed Mar. 1, 1994) (misrepresented odds of winning valuable prizes purportedly offered in exchange for contributions).

[168] *See, e.g., FTC* v. *Southwest Mktg. Concepts,* No. H–97–1070 (S.D. Texas filed Apr. 1, 1997); *Saja; FTC* v. *Dean Thomas Corp.,* No. 1:97 CV 0129 (N.D. Ind. filed Apr. 7, 1997); *FTC* v. *The Century Corp.,* No. 1:97 CV 0130 (N.D. Ind. filed Apr. 7, 1997); *Image Sales & Consultants,* No. 1:97 CV 0131; *FTC* v. *Omni Advertising,* No. 1:98 CV 0301 (N.D. Ind. filed Oct. 5, 1998); *FTC* v. *T.E.M.M. Mktg., Inc.,* No. 1:98 CV 0300 (N.D. Ind. filed Oct. 5, 1998); *FTC* v. *Tristate Advertising Unlimited, Inc.,* No. 1:98 CV 302 (N.D. Ind, filed Oct 5, 1998); *Gold; Eight Point Communications,* No. 98–74855 (D.C. Mich. filed Nov. 10, 1998). *See also* Pa. Stat. Ann. tit. 10 § 162.15(A)(11) (West 2000).

[169] *See, e.g. FTC* v. *Eight Point Communications* (telemarketers misrepresented affiliation with local police and fire departments); *FTC* v. *Gold,* No. SACV 98–968 LHM (EEx) (C.D. Calif. filed Nov. 9, 1998) (telemarketers falsely identified selves as members of local law enforcement); *Saja* (telemarketers falsely claimed to be firefighters or police officers). *See also Commonwealth* v. *Ranick Enters.,* Inc., No. 1997–06464–E (Super. Ct. Ma., filed June 26, 2001) (telemarketers misrepresented affiliation with local police and fire departments).

[170] *Cliffdale Assocs.,* 103 F.T.C. at 165.

[171] *Thompson Medical Co.,* 104 F.T.C. 648, 818 (1984), *aff'd,* 791 F.2d 189 (D.C. Cir. 1986), *cert. denied,* 479 U.S. 1086 (1987).

[172] *Cliffdale Assocs.,* 103 F.T.C. at 182.

[173] *See* Kenneth Culp Davis & Richard J. Pierce, Jr., Administrative Law Treatise Section 3.2 (3rd ed. 1994) (noting that agencies have the power to ''fill any gaps'' that Congress either expressly or implicitly left to the agency to decide pursuant to the decision in *Chevron* v. *Natural Resources Defense Council,* 467 U.S. 837 (1984)). It is, therefore, permissible for agencies to engage in statutory construction to resolve ambiguities in laws directing them to act, and courts must defer to this administrative policy decision.

6102(a)(3)(A) (emphasis added). Similarly, by directing that the Commission regulate the times when telemarketers could make unsolicited calls to consumers in the second enumerated item, 15 U.S.C. 6102(a)(3)(B), Congress recognized that telemarketers' right to free speech is in tension with and encroaches upon consumers' right to privacy within the sanctity of their homes; the calling times limitation protects consumers from telemarketing intrusions during the late night and early morning, when the toll on their privacy from such calls would likely be greatest. The third enumerated practice, 15 U.S.C. 6102(a)(3)(C), also bears a relation to privacy, in that it requires the consumer be given information promptly that will enable him or her to decide whether to allow the infringement on his or her time and privacy to go beyond the initial invasion. Congress provided authority for the Commission to curtail these practices that impinge on consumers' right to privacy but are not likely deceptive under FTC jurisprudence. This recognition by Congress that even non-deceptive telemarketing business practices can seriously impair consumers' right to be free from harassment and abuse and its directive to the Commission to reign in these tactics, lie at the heart of § 310.4 of the TSR.

The practices not specified as abusive in the Act, but determined by the Commission to be abusive and prohibited in the original rulemaking are: (1) Threatening or intimidating a consumer, or using profane or obscene language; (2) ''causing any telephone to ring, or engaging any person in telephone conversation, repeatedly or continuously with intent to annoy, abuse, or harass any person;'' (3) requesting or receiving payment for credit repair services prior to delivery and proof that such services have been rendered; (4) requesting or receiving payment for recovery services prior to delivery and proof that such services have been rendered; and (5) ''requesting or receiving payment for an advance fee loan when a seller or telemarketer has guaranteed or represented a high likelihood of success in obtaining or arranging a loan or other extension of credit.''

The first two of these are directly consistent with the Act's emphasis on privacy protection, and with the intent, made explicit in the legislative history, that the TSR address these particular practices.[174] In the Statement of Basis and Purpose for the Rule, the Commission stated, with respect to the prohibition on threats, intimidation, profane and obscene language, that these tactics ''are clearly abusive in telemarketing transactions.'' 60 FR 30415. The Commission also noted that the commenters supported this view, and specifically cited the fact that ''threats are a means of perpetrating a fraud on vulnerable victims, and that many older people can be particularly vulnerable * * *'' *Id.*

The remaining three abusive practices identified in the Rule—relating to credit repair services, recovery services, and advance fee loan services—were included in the rule under the Telemarketing Act's grant of authority for the Commission to prescribe rules prohibiting other unspecified abusive telemarketing acts or practices. The Act gives the Commission broad authority to identify and prohibit additional abusive telemarketing practices beyond the specified practices that implicate privacy concerns,[175] and gives the Commission discretion in exercising this authority.[176]

As noted above, some of the practices previously prohibited as abusive under the Act flow directly from the Telemarketing Act's emphasis on protecting consumers' privacy. When the Commission seeks to identify practices as abusive that are less distinctly within that parameter, the Commission now thinks it appropriate and prudent to do so within the purview of its traditional unfairness analysis as developed in Commission jurisprudence[177] and codified in the FTC Act.[178] This approach constitutes a reasonable exercise of authority under the Telemarketing Act, and provides an appropriate framework for several provisions of the original rule as well as for the proposed prohibition on the transfer of preacquired billing information, as discussed below. Whether privacy-related intrusions or concerns might independently give rise to a Section 5 violation outside of the Telemarketing Act's purview is not addressed or affected by this analysis.

The abusive practices relating to credit repair services, recovery services, and advance fee loan services each meet the criteria for unfairness. An act or practice is unfair under Section 5 of the FTC Act if it causes substantial injury to consumers, if the harm is not outweighed by any countervailing benefits, and if the harm is not reasonably avoidable.[179] An important characteristic common to credit repair services, recovery services, and advance fee loan services is that in each case the offered service is fundamentally bogus. It is the essence of these schemes to take consumers' money for services that the seller has no intention of providing and in fact does not provide. Each of these schemes had been the subject of large numbers of consumer complaints and enforcement actions. Thus, each caused substantial injury to consumers. Amounting to nothing more than outright theft, these practices conferred no potentially countervailing benefits. Finally, having no way to know these offered services were illusory, consumers had no reasonable means to avoid the harm that resulted from accepting the offer. Thus, these practices meet the statutory criteria for unfairness, and accordingly, the remedy imposed by the Rule to correct them is to prohibit requesting or receiving payment for these services until after performance of the services is completed.

Section 310.4(a)—Abusive Conduct Generally

Section 310.4(a) of the Rule sets forth specific conduct that is considered to be an ''abusive telemarketing act or practice'' under the Rule. MPA was the only commenter to address § 310.4 specifically, expressing its support for this section as a whole and noting that the practices listed as ''abusive'' clearly fall outside the practices of legitimate

[174] ''With respect to the bill's reference to 'other abusive telemarketing activities' * * * the Committee intends that the Commission's rulemaking will include proscriptions on such inappropriate practices as threats or intimidation, obscene or profane language, refusal to identify the calling party, continuous or repeated ringing of the telephone, or engagement of the called party in conversation with an intent to annoy, harass, or oppress any person at the called number. The Committee also intends that the FTC will identify other such abusive practices that would be considered by the reasonable consumer to be abusive and thus violate such consumer's right to privacy.'' H.R. Rep. No. 20, 103rd Congress, 1st Sess. (1993) at 8.

[175] 15 U.S.C. 6102(a)(1).

[176] The ordinary meaning of ''abusive'' is (1) ''wrongly used; perverted; misapplied; catachrestic;'' (2) ''given to or tending to abuse,'' (which is in turn defined as ''improper treatment or use; application to a wrong or bad purpose''). Webster's International Dictionary, Unabridged 1949.

[177] *See* Letter from the FTC to Hon. Wendell Ford and Hon. John Danforth, Committee on Commerce, Science and Transportation, United States Senate, Commission Statement of Policy on the Scope of Consumer Unfairness Jurisdiction, appended to *International Harvester Co.,* 104 F.T.C. 949, 1064 (1984); Letter from the FTC to Hon. Bob Packwood and Hon. Bob Kasten, Committee on Commerce, Science and Transportation, United States Senate, reprinted in FTC Antitrust & Trade Reg. Rep. (BNA) No. 1055, at 568–70 (Mar. 5, 1982); *Orkin Exterminating Company, Inc.* v. *FTC,* 849 F.2d 1354, 1363–68, *reh'g denied,* 859 F.2d 928 (11th Cir. 1988), *cert. denied,* 488 U.S. 1041 (1989).

[178] 15 U.S.C. 45(n).

[179] *Id.*

companies.[180] None of the comments recommended that changes be made to the current wording of § 310.4(a)(1)–(3); nor has the Commission's enforcement experience revealed any difficulty with these provisions that would warrant amendment. Therefore, the language in these provisions remains unchanged in the proposed Rule.[181]

It is important to note, however, that Rule amendments mandated by the USA PATRIOT Act expand the reach of § 310.4(a) to encompass the solicitation of charitable contributions. The section begins with the statement ''It is an abusive telemarketing act or practice and a violation of this Rule for any seller, or any telemarketer to engage in [the conduct specified in subsections (1) through (6) of this provision of the Rule.]'' Because the proposed Rule modifies the definitions of ''telemarketing'' and ''telemarketer'' to encompass the solicitation of charitable contributions, § 310.4(a) now applies to telemarketers engaged in the solicitation of charitable contributions, and each of the prohibitions in § 310.4(a) will therefore now apply to those telemarketers soliciting on behalf of either sellers or charitable organizations. It is unlikely that §§ 310.4(a)(1)–(4) will have any significant impact on telemarketers engaged in the solicitation of charitable contributions, since those sections all deal with practices that are commercial in nature and not associated with charitable solicitations. Section 310.4(a)(5) & (6) however, address practices that are not necessarily confined to telemarketing to induce purchases of goods or services, and therefore may have an impact upon telemarketers engaged in the solicitation of charitable contributions.

Commenters did suggest changes to § 310.4(a)(4) (which addresses telemarketing of advance fee loans) and identified other telemarketing practices that should be declared ''abusive telemarketing acts or practices.'' [182] Each of those suggestions, and the Commission's reasoning in accepting or rejecting it, will be discussed in more detail below.

Section 310.4(a)(4)—Advance Fee Loans

Section 310.4(a)(4) prohibits requesting advance payment for obtaining a loan or other extension of credit when the seller or telemarketer has represented a high likelihood that the consumer will receive the loan or credit. NCL reported that the number of complaints it received about such advance fee loan schemes has risen steeply in the five years since the Rule was promulgated.[183] In 1995, advance fee loan complaints ranked 15th in volume; in 1997, they had risen to number two.[184] NCL speculates that one reason for the increased number of complaints about fraudulent advance fee loans is that consumers may be confused about whether and under what circumstances fees are legitimately required for different types of loans, and thus may have an increased vulnerability to fraudulent advance fee loan schemes.[185]

As a primary example of such consumer confusion, NCL reports that it receives numerous complaints about advance fee credit cards.[186] NCL states that, unlike the deposits requested for legitimate secured credit cards, these offers request an advance fee for ''processing'' or for an ''annual fee'' for a ''guaranteed'' credit card. Moreover, NCL's complaints show that consumers either do not receive the cards at all or receive a card that is good only for purchasing items from the card-issuer's catalog.[187] NCL suggested that consumers often do not understand that legitimate credit card companies do not require a fee from a consumer in advance of providing a non-secured credit card.[188] NCL recommended that § 310.4(a)(4) of the Rule be modified specifically to prohibit advance fees for credit cards, suggesting that such a ban would make it easier for consumers to distinguish between legitimate and fraudulent credit card offers.[189]

The Commission believes that the language of § 310.4(a)(4) already prohibits such advance fee credit card offers via telemarketing.[190] In fact, both the Commission and the State Attorneys General have brought cases challenging advance fee credit card offers as violations of the Rule.[191] Therefore, the provision's language remains unchanged in the proposed Rule.

Section 310.4(a)(5)—Preacquired Account Telemarketing

A major concern identified by many commenters was ''preacquired account telemarketing,'' a phrase coined to describe those instances when a telemarketer already possesses information necessary to bill charges to a consumer at the time a telemarketing call is initiated. Typically, the preacquired billing information is a credit card number (and related information),[192] acquired from a

[180] *See* MPA at 9.

[181] Section 310.4(a)(1) prohibits as an abusive practice ''threats, intimidation, or the use of profane or obscene language.'' Section 310.4(a)(2) prohibits requesting advance payment for so-called ''credit repair'' services. NCL noted that the level of complaints about such bogus credit repair services, relative to other products and services, has remained relatively low since the Rule was promulgated, annually ranking 23rd or 24th on the list of the most frequent complaints since 1995. NCL at 11. Section 310.4(a)(3) prohibits requesting advance payment for the recovery of money lost by a consumer in a previous telemarketing transaction. NCL reported that the number of complaints about such fraudulent ''recovery'' services declined dramatically after the Rule was promulgated, from ranking 3rd in 1995 to 25th in 1997. *Id.*

[182] *See, e.g.,* AARP at 5 (ban use of courier pickups); Jordan, generally (ban use of prisoners as telemarketers); NAAG at 19–20 (ban targeting vulnerable groups and ban sale of lists of victims); NCL at 12 (ban advance fees for credit cards).

[183] FTC complaint data mirrors that provided by NCL, with advance fee loan complaints rising during the period from 1995 to 2000.

[184] NCL at 11.

[185] *See* NCL at 11; Rule Tr. at 378–380.

[186] NCL at 12; Rule Tr. at 297–298, 376.

[187] NCL at 12; Rule Tr. at 297–298, 377.

[188] Rule Tr. at 377–378.

[189] NCL at 12; Rule Tr. at 297–299, 376–380.

[190] *See* Rule Tr. at 297–299, 377–380. Even where the advance fee credit card offers described by NCL do not make promises about a ''high likelihood of success'' in obtaining the card, thus falling outside the parameters of § 310.4(a)(4), the offers, in most cases, would still violate the Rule because they fail to make the disclosures of material information required by § 310.3(a)(1), make one or more misrepresentations in violation of § 310.4(a)(2), and/or make false or misleading statements to induce payment in violation of § 310.4(a)(4). Of course, these provisions apply only to credit card offers made by individuals or entities not exempt from coverage under the FTC Act, and so would not apply to advance fee credit cards marketed by a financial institution that is exempt from the Commission's jurisdiction under Section 5 of the FTC Act. 15 U.S.C. 45(a)(2).

[191] Rule Tr. at 378. To date, the Commission and the State Attorneys General have launched five law enforcement ''sweeps'' targeting corporations and individuals that promise loans or credit cards for an advance fee, but never deliver them. A recent sweep was announced June 20, 2000, and involved five cases filed by the FTC, 13 actions taken by State officials, and three cases filed by Canadian law enforcement authorities. *See,* ''FTC, States and Canadian Provinces Launch Crackdown on Outfits Falsely Promising Credit Cards and Loans for an Advance Fee,'' FTC press release dated June 20, 2000. Among the most recent FTC cases targeting advance fee loans, four involved advance fee credit card schemes: *FTC* v. *Financial Svcs. of North America,* No. 00–792 (GEB) (D.N.J. filed June 9, 2000); *FTC* v. *Home Life Credit,* No. CV00–06154 CM (Ex) (C.D. Cal. filed June 8, 2000); *FTC* v. *First Credit Alliance,* No. 300 CV 1049 (D. Conn. filed June 8, 2000); and *FTC* v. *Credit Approval Svc,* No. G–00–324 (S.D. Tex. filed June 7, 2000). In addition, another case against a fraudulent credit card loss protection seller also included elements of illegal advance fee credit card fees. *FTC* v. *First Capital Consumer Membership Svcs, Inc.,* Civil No. 00–CV–0905C(F) (W.D.N.Y. filed Oct. 23, 2000).

[192] *See* Rule Tr. at 100–101, which cites a press release issued by the Minnesota Attorney General on the lawsuit that Minnesota brought against U.S. Bancorp for selling customer information. In that case, Minnesota alleged that U.S. Bancorp transferred large amounts of sensitive customer information to Memberworks, Inc., a telemarketing firm, for $4 million, plus commissions on any completed sales. The customer information transferred from U.S. Bancorp to Memberworks included, in addition to account number, the customer's medical status, homeowner status, occupation, Social Security number, date of birth, and payment history data, among other things. *See*

financial institution or some other third party. However, sellers and telemarketers also obtain other types of billing information in advance of initiating a telemarketing campaign, including debit card account numbers, checking account numbers, mortgage account numbers and the like.[193] Usually, the acquisition of preacquired billing information occurs through a joint marketing agreement or other arrangement in which, for example, Seller A provides access to its customer billing information to Seller B for the purposes of marketing Seller B's goods or services, in exchange for a percentage of each sale.[194] Telemarketers and sellers increasingly rely on such affinity relationships to up-sell goods and services to the customers of companies with which they have developed a business relationship, often transferring billing information as well as contact information.[195] There are, however, a variety of scenarios in which preacquired account telemarketing may occur. Enhanced database technology has also made it practical for sellers to retain and reuse the billing information of customers with whom they have an ongoing business relationship, yielding yet another source of preacquired billing information—the seller's own files.[196]

The issue of the use in telemarketing of preacquired billing information was addressed by a number of commenters, and also was the subject of extensive discussion at the July Forum.[197] Record evidence presented by businesses and industry representatives indicates that the use of preacquired billing information is quite common,[198] and that it allegedly saves time during telemarketing calls,[199] presumably saving money as well. In the context of up-selling and affinity marketing, which were noted as increasingly common forms of marketing at the July Forum, the use of preacquired billing information is universal and ''very important'' to telemarketers.[200]

Comments from law enforcement representatives, consumer advocacy groups, and consumers criticized the use of preacquired billing information by telemarketers for two specific reasons. First, NAAG suggested that the practice ''presents inherent opportunities for abuse and deception,'' including the billing of unauthorized charges to the customer's account.[201] According to NAAG, this practice ''generates a significant number of vehement consumer complaints about unauthorized account charges,'' [202] a position with which NCL concurred at the July Forum.[203] LSAP echoed these concerns in its comments, observing that, ''(a)s a result of (the) ability to preacquire such accounts, (the State of) Minnesota is seeing * * * telemarketers charge customers' accounts with questionable or complete lack of consumer authorization.''[204]

These commenters noted the particular dangers for consumers that arise when preacquired billing information is used in combination with free trial offers and/or negative option plans. NAAG cited club membership programs sold on a free trial basis as an example of why this combination is troubling. Often consumers consent to having additional information about an offered club membership mailed for their review, incorrectly assuming that since they have not provided their billing information, they will not be charged unless they affirmatively take some action to accept the offer.[205] Many consumers who complain about such free trial club membership programs claim to have been told neither that they would be charged, nor that the telemarketer already had their billing information.[206] When they find they have been charged, many consumers are shocked and mystified, wondering how the telemarketer obtained their billing information.[207]

The second criticism of the use in telemarketing of preacquired billing information that commenters identified is that when the seller avoids the necessity of persuading the consumer to demonstrate her consent by divulging her billing information, the usual sales dynamic of offer and acceptance is inverted.[208] One commenter suggested that ''(a) typical telemarketing sale not involving preacquired accounts requires that the consumer provide his or her credit card or other account number to the telemarketer, or that the consumer send a check or sign a contract in a later transaction. * * * (By contrast, t)he pre-acquired account telemarketer not only establishes the method by which the consumer will provide consent, but also decides whether the consumer actually consented.'' [209] Thus, the most fundamental tool consumers have for controlling commercial transactions—withholding the information necessary to effect payment unless and until they have consented to buy—is ceded, without the consumers' knowledge, to the seller before the sales pitch ever begins.[210]

In their comments, various law enforcement representatives and consumer advocacy groups offered potential solutions to the deception they view as resulting from the use of preacquired billing information. NAAG suggested that the Rule require telemarketers to obtain written consent from any customer before charging a preacquired account.[211] LSAP recommended expanding the express verifiable authorization provision of § 310.3(a)(3) to credit card purchases, and requiring that where preacquired account telemarketing occurs, express

also, Lornet Turnbull, ''Credit-card Issuer Settles Charges of Violating Consumer Privacy Laws,'' *The Columbus Dispatch,* (Sept. 26, 2000), p. 1E.

[193] Consumers have reported to various law enforcement agencies, including the Commission, that unauthorized charges due to preacquired account telemarketing have appeared on mortgage statements, checking accounts, and telephone bills. *See, e.g.,* LSAP at 2; NAAG at 10.

[194] Rule Tr. at 89–90; AARP at 4.

[195] *See* Rule Tr. at 95–96, 176.

[196] For example, a customer who places quarterly orders for contact lenses by calling a particular lens retailer may provide her billing information in an initial call, with the understanding and intention that the telemarketer will retain it so that, in any subsequent call, the retailer has access to this billing information. As was observed by participants in the July Forum, there may be certain benefits that accrue to consumers from the retention of their billing information by retailers with whom they have a continuing relationship, provided that customers understand the nature of their relationship with the particular seller, as well as the nature of any transaction for which their billing information may be used by that seller. During the July Forum, one commenter gave a non-telemarketing example of the possible benefits that might be enjoyed by a consumer who uses a website such as Priceline.com, to which she provides her credit card number and related information, with the intention that it be retained as a convenience to her in her ongoing business relationship with the company. Rule Tr. at 91–92. As another commenter pointed out, the key to this transaction is the fact that the consumer makes the decision to supply the billing information to the seller, and understands and expects that the information will be retained and that the account may be charged in the future, should the consumer authorize another purchase. *Id.* at 102.

[197] *See generally* Hollingsworth at 1; LSAP at 1–4; NAAG at 10–13; Texas at 1–2; Rule Tr. at 87–129, 311.

[198] *See Id.* at 88, 95–96.

[199] *See Id.* at 90.

[200] MPA stated that the use of preacquired account information is ''very important'' in affinity marketing campaigns. Rule Tr. at 176–177.

[201] NAAG at 10.

[202] *Id.* at 11.

[203] Rule Tr. at 91 (''The National Consumers League is really concerned about what we see as the growing use of preacquired account information, and it's not only credit card accounts. It's bank accounts. This pops up in complaints that we receive about buyer's clubs, about credit card loss protection plans and certain other telemarketing fraud categories.''), 113–114.

[204] LSAP at 2.

[205] *See* NAAG at 11–12.

[206] *See* Hollingsworth at 1; Rule Tr. at 113–114.

[207] *Id.*

[208] *See* NAAG at 10.

[209] *Id.* at 10–11.

[210] *Id.* at 10 (''Other than a cash purchase, providing a signature or an account number is a readily recognizable means for a consumer to signal assent to a deal. Preacquired account telemarketing removes these short-hand methods for the consumer to control when he or she has agreed to a purchase.'').

[211] *Id.* at 13.

authorization be obtained in the form of an oral or written statement from the account holder disclosing the last four digits of the account number to be charged.[212] Texas opined that the Rule should require telemarketers to disclose: (a) That the telemarketer is already in possession of the consumer's billing information; (b) the anticipated billing date; and (c) the total amount that the consumer is agreeing to pay.[213]

Third-party sharing of preacquired billing information is an abusive practice. The TSR, as originally adopted, implicitly condemned the then-unknown practice of using preacquired billing information in telemarketing, and the Statement of Basis and Purpose expressly so stated.[214] Nevertheless, the record developed in this proceeding indicates that the problematic trafficking in and use of consumers' billing information has become prevalent in the marketplace. Therefore, the Commission believes the Rule must address this in a more explicit and straightforward fashion.

The Commission is persuaded from the record evidence and its own law enforcement experience that receiving from any person other than the consumer for use in telemarketing any consumer's billing information, or disclosing any consumer's billing information to any person for use in telemarketing constitutes an abusive practice within the meaning of the Telemarketing Act. The practice meets the Commission's traditional criteria for unfairness, in accordance with the Commission's view, set forth above, that the authority under the Telemarketing Act to prohibit ''abusive'' practices not focusing on consumers'' privacy should be exercised within the framework of that more rigorous legal standard. The Commission believes that the sharing of consumers' preacquired billing information causes or is likely to cause substantial injury to consumers which is not reasonably avoidable by consumers themselves and not outweighed by countervailing benefits to consumers or to competition. 15 U.S.C. 45(n).

In particular, the Commission questions whether benefits to consumers or to competition could accrue from preacquired account telemarketing sufficient to outweigh the injury that the practice causes or is likely to cause. Although some industry members have claimed that preacquired account information generates efficiencies, the Commission has no data that identify or quantify specific efficiency gains. Moreover, other industry members have maintained that there is no legitimate reason for sharing account information.

Finally, consumers are powerless to avoid the injury that can result from third party sharing of preacquired billing information, since making a specific purchase requires divulging one's account information; there is nothing in such a transaction to suggest that the seller or telemarketer will pass it along to third parties or use it for any purpose other than to bill charges for that particular transaction.[215]

Accordingly, the Commission proposes, in § 310.4(a)(5), to prohibit receiving from any person other than the consumer or donor for use in telemarketing any consumer's or donor's billing information, or disclosing any consumer's or donor's billing information to any person for use in telemarketing. During the comment period that occurred prior to enactment of the USA PATRIOT Act, evidence of abuse of donors' billing information was neither specifically sought, nor received. Nevertheless, pursuant to that Act, the Commission proposes to include the term ''donor'' in this provision to make it clear that telemarketers engaged in the solicitation of charitable contributions must comply. Nothing in the text or legislative history of the USA PATRIOT Act suggests that Congress intended to exclude telemarketers engaged in the solicitation of charitable contributions from provisions like this that target abusive telemarketing practices. The Commission believes that the harm to donors would be no less than the harm to consumers were a telemarketer to receive from or disclose to third parties the billing information of donors.

Section 310.4(a)(6)—Blocking Caller Identification Service (''Caller ID'') Information

Proposed § 310.4(a)(5) would prohibit blocking, circumventing, or altering the transmission of, or directing another person to block, circumvent or alter the transmission of, the name and telephone number of the calling party for purposes of caller identification service (''Caller ID'') purposes. The Commission believes this proposed provision is necessary to protect consumers' privacy under the Telemarketing Act. The proposed provision would include a proviso that it is not a violation to substitute, for the phone number used in making the call, the actual name of the seller or charitable organization, and the seller's or charitable organization's customer or donor service telephone number, which is answered during regular business hours.[216] The scope of this provision extends to cover the solicitation by telemarketers of charitable contributions, pursuant to section 1011 of the USA PATRIOT Act. The Commission believes there to be no meaningful distinction between telemarketers calling on behalf of sellers and telemarketers calling on behalf of charitable organizations that would merit excluding the latter from this provision of the Rule. In fact, the record evidence amassed during the review of the Rule fully supports the proposition that consumers using caller identification technology to screen telemarketers want to know who is calling them, regardless of whether the caller is soliciting them to purchase goods or services or to make a charitable contribution. Moreover, the mandate of the Telemarketing Act regarding the right to privacy of those called by telemarketers, which is in no way altered by the USA PATRIOT Act, supports coverage of the solicitation of charitable contributions under this provision of the Rule.

The Commission received numerous comments from consumers and others about the fact that Caller ID routinely fails to display the names and numbers of telemarketers. These commenters noted that the consumer's Caller ID device often displays only a message that the identity of the caller is ''unavailable,'' the caller is ''out of the area,'' or some similar phrase, depending on the service or device the consumer uses to receive this Caller ID information.[217] The record also contains extensive discussion of the disparate views as to why Caller ID equipment often does not display the telemarketer's identity and about the technological and economic feasibility of transmitting that information.[218] Although some commenters argue that some telemarketers deliberately block the

[212] LSAP at 4.

[213] Texas at 1–2. The suggested disclosure that the telemarketer already possesses the customer's billing information was echoed by some of the industry participants during the July Forum. *See* Rule Tr. at 177.

[214] ''(A) telemarketer or seller who fails to provide the (§ 310.3(a)(1)) disclosures until the consumer's payment information is in hand violates the Rule.'' 60 FR 43846 (Aug. 23, 1995).

[215] *See* Hollingsworth at 1; NAAG at 10–11, 20; Texas at 1–2; Rule Tr. at 102–107.

[216] For a discussion of the Rule's definition of ''caller identification service,'' see the explanation of § 310.2(d), above.

[217] *See, e.g.,* Baressi at 1; Bell Atlantic at 8; Blake at 1; Collison at 1; Lee at 1; LeQuang at 1; Mack at 1; Sanford at 1.

[218] *See, e.g.,* Bell Atlantic at 8; Lesher at 1; DNC Tr. at 46–47, 106–123, 263; Rule Tr. at 19–49.

transmission of Caller ID information,[219] there is record evidence indicating that it is technically impossible for many telemarketers to transmit Caller ID information because of the type of telephone system they use.[220] Many telemarketers use a large ''trunk side'' connection (also known as a trunk or T–1 line), which is cost-effective for making many calls, but cannot transmit Caller ID information.[221] Calls from these lines will display a term like ''unavailable'' on a Caller ID device, as described above.

Comments from representatives of the telemarketing industry state that, even if it were possible to transmit a name and telephone number, the information would be of little use to the consumer because the number shown most likely would be the number of the telemarketer's central switchboard or trunk exchange rather than a useful number, such as a customer service number, where the consumer could ask to be placed on a ''do-not-call'' list.[222]

Caller ID is an important tool for consumers, not only because it allows consumers to screen out unwanted callers, but also because it allows consumers to identify companies to contact to request to be placed on the company's ''do-not-call'' list.[223] If the telemarketer subverts the transmission of its name and telephone number for Caller ID purposes, the telemarketer denies the consumer the means to identify who and where the telemarketer is, and to whom the consumer can assert her ''do-not-call'' rights.[224] In order to enhance the usefulness of this tool, and to protect consumers' privacy and their right to be placed on a ''do-not-call'' list, a number of States have passed or are considering legislation regarding transmission of Caller ID information. One State legislative approach requires the seller or telemarketer to disclose its name and telephone number to any Caller ID device.[225] A second approach prohibits the deliberate blocking of Caller ID information.[226] Congress also has examined this issue; the most recent Congressional proposals have taken the same approaches as the States.[227]

Based on the record to date, it appears that the current state of technology may limit the ability of some telemarketers to transmit Caller ID information because of the type of phone line they use. However, the Commission recognizes that technology advances at a rapid pace in the telecommunications industry; what is impossible today may be commonplace in the future. Further, if additional legislation is passed requiring telemarketers to provide full, unmodified Caller ID information, the industry (including PBX vendors, call center solution providers, and other technology suppliers) may be forced to develop the appropriate technology to meet these regulatory mandates. Therefore, in Section IX of this Notice, the Commission requests comment on the following:

- Trends in telecommunications that might permit the transmission of full Caller ID information when the caller is using a trunk line or PBX system;
- How firms currently are meeting the regulatory requirements in those States that have passed such legislation; and
- The costs and benefits of complying with these requirements and with the Commission's proposed Rule provision.

Although current technological limitations may restrict transmission of Caller ID information along some types of phone lines, the Commission believes that there is no reason that a legitimate seller, charitable organization, or telemarketer would choose to subvert the display of information sent or transmitted to consumers' Caller ID equipment.[228]

Therefore, the Commission proposes in § 310.4(a)(5) to specify that it is an abusive telemarketing act or practice for a seller, charitable organization, or telemarketer to deliberately block, circumvent, or interfere with the information displayed on Caller ID equipment. The proposed provision states that it is not a violation to substitute the actual name of the seller or charitable organization, and the seller's or telemarketer's customer or donor service number, which is answered during regular business hours, for the phone number used in making the call.

As noted, subverting the transmission of the name or telephone number of the calling party for caller identification service purposes denies the person

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[219] Bell Atlantic at 8; Lesher at 1; DNC Tr. at 46–47.

[220] Bell Atlantic at 8; DNC Tr. 109–110, 112–118, 263.

[221] Bell Atlantic at 8; Rule Tr. at 20–47. Bell Atlantic also states, however, that some telemarketers are using ''line side'' connections that are capable of transmitting Caller ID information, but choose to block its transmission. Bell Atlantic recommends that to the extent that is occurring, the Commission should prohibit telemarketers from blocking Caller ID. Bell Atlantic at 8. In this regard, the FCC has found that some PBX equipment has the capability of transmitting Caller ID information and also has the ability to suppress that information. *See Rules and Policies Regarding Calling Number Identification Service—Caller ID, Third Report and Order, Memorandum Opinion and Order on Further Reconsideration, and Memorandum Opinion and Order on Reconsideration,* FCC 97–103, CC Docket 91–281, 12 FCC Rcd 3867, 3882–84 (1997) (''Third Report and Order''). Among other issues, the Third Report and Order establishes new rules to govern PBX and related systems, requiring them to provide users (*i.e.,* calling parties) with some type of blocking and unblocking capabilities. Since the agency began its rulemaking in 1991, a major focus of the FCC proceeding has been to ensure the privacy of calling parties by providing the ability to block and unblock the transmission of calling party information.

[222] DNC Tr. at 113–114; Rule Tr. at 41–42.

[223] According to a Bell Atlantic survey of residential customers, three out of four customers buy Caller ID to help stop abusive telephone calls. Laurie Itkin, ''Caller ID Privacy Issues,'' 1 NCSL LegisBriefs (Nov. 1, 1993). Although Caller ID began as a local service, the advent of new switching technology (Signaling System Seven or ''SS7'' switching technology) has made it possible for Caller ID information to be transmitted with out-of-state calls. *See Report and Order and Further Notice of Proposed Rulemaking,* FCC 94–59, CC Docket 91–281, 9 FCC Rcd 1764 (1994) (''Report and Order'').

[224] LeQuang at 1.

[225] *See, e.g.,* New Hampshire (ch. 14, effective Jan.1, 1999) and Texas (Tex. Utilities Code Ann. § 55.1065), which require that, if a marketer leaves a message on an answering machine or uses an automatic dialing device (ADAD), the Caller ID display must include a telephone number at which the marketer may receive calls.

[226] *See, e.g.,* Alabama (Ala. Code § 8–19C–5(b)); Arizona (Ariz. Rev. Stat. § 44–1278 subsection B, paragraph 1); Georgia (Ga. Code Ann. § 46–5–27); Kansas (Kan. Stat. Ann. § 50–670(c)); Kentucky (Ky. Rev. Stat. Ann. § 367.46955(9); Michigan (Mich. Comp. Laws § 484.125, section 25(2)(b)); New Hampshire (N.H. Rev. Stat. Ann. § 359–E:5a); New York (NY General Business Law § 399–p); Tennessee (Tenn. Code Ann. § 65–4–403); Texas (Tex. Utilities Code Ann. § 55.1065); Utah (Utah Code Ann. § 13–25a–103(6)).

[227] H.R. 90 (the ''Know Your Caller Act of 2001'') (introduced by Rep. Frelinghuysen Jan. 3, 2001 and passed by the House on Dec. 4 2001) would prohibit telemarketers from interfering with or circumventing the consumer's Caller ID service. It also would require that the telemarketer display on the Caller ID equipment the name of the seller on whose behalf the call is being made and a valid, working telephone number the consumer may call to be placed on a ''do-not-call'' list. (These requirements would be implemented through FCC regulations.) A piece of proposed legislation in the previous Congress, H.R. 3180 (a bill to amend the Telemarketing Act) (introduced by Rep. Salmon) would have prohibited telemarketers from blocking their telephone number to evade a Caller ID device. Similar legislation was introduced in 2001: H.R. 232 (''Telemarketing Victims Protection Act'') (introduced by Rep. King); and S. 722 (''Telemarketer Identification Act of 2001'') (introduced by Sen. Frist).

[228] The FCC requires common carriers to provide a mechanism by which a line subscriber can block the display of his or her name and telephone number on a Caller ID device. Rule Tr. at 39–40; 47 CFR 64.1601(b). *See Rules and Policies Regarding Calling Number Identification Service—Caller ID, Memorandum Opinion and Order on Reconsideration, Second Report and Order and Third Notice of Proposed Rulemaking,* FCC 95–187, CC Docket No. 91–281, 10 FCC Rcd 11700, 11708 (1995) (''Second Report and Order''). However, such a blocking mechanism is intended to ensure the privacy of individual line subscribers, such as those with unlisted numbers, undercover law enforcement investigators, or those calling from battered women's shelters, whose safety might be jeopardized if Caller ID information were displayed when they made outgoing calls. No such privacy concerns pertain when sellers or telemarketers are initiating outbound sales solicitation calls. *See* Itkin, ''Caller ID Privacy Issues.''

called the means to know who and where the telemarketer is, and to whom a ''do-not-call'' demand should be directed. It is beyond cavil that this is the very type of practice Congress had in mind in directing that the Commission should ''identify other such abusive practices that would be considered by the reasonable consumer to be abusive and thus violate such consumer's right to privacy.'' [229] As such, the proposed prohibition directly advances the Telemarketing Acts' goal to protect consumers' privacy. Thus, the practice is abusive under the Telemarketing Act, 15 U.S.C. 6102(a)(1).

Section 310.4(b)—Pattern of Calls

Section 310.4(b)(1)(i) specifies that it is an abusive telemarketing practice to cause any telephone to ring, or to engage any person in telephone conversation, repeatedly or continuously, with intent to annoy, abuse, or harass any person at the called number. None of the comments recommended that changes be made to the current wording of § 310.4(b)(1)(i). Therefore, the language in that provision remains unchanged in the proposed Rule.[230] However, the expansion in scope of the TSR effectuated by the USA PATRIOT Act brings within the ambit of this provision telemarketers soliciting charitable contributions, as well as sellers and telemarketers making calls to induce the purchase of goods and services.

Commenters did suggest changes to § 310.4(b)(1)(ii) (the ''do-not-call'' provision) and to § 310.4(b)(2) (the ''safe harbor'' provision). Those suggestions and the Commission's reasoning in accepting or rejecting the recommendations are discussed in detail below.

Section 310.4(b)(1)(ii)—Denying or Interfering With Rights

Proposed § 310.4(b)(1)(ii) would prohibit a telemarketer from denying or interfering in any way with a person's right to be placed on a ''do-not-call'' list, including hanging up the telephone when a consumer initiates a request that he or she be placed on the seller's list of consumers who do not wish to receive calls made by or on behalf of that seller. The Commission received numerous comments from individual consumers who recounted experiences in which they had been hung up on when they requested to be placed on a ''do-not-call'' list. The telemarketers hung up on them without taking their requests, or used other means to hamper or impede these consumers' attempts to be placed on a ''do-not-call'' list.[231] These comments were echoed by participants in both the ''Do-Not-Call'' Forum and the July Forum.[232]

Pursuant to section 1011 of the USA PATRIOT Act, the Commission proposes to extend the reach of this provision of the Rule to encompass telemarketers soliciting charitable contributions. Nothing in the text or legislative history of that Act indicates an intention to exclude telemarketers soliciting charitable contributions from Rule provisions that, like this one, are designed to protect consumers' privacy rights. Moreover, the review of the Rule yielded evidence that, in some instances, telemarketers soliciting charitable contributions are unwilling to honor donors' do-not-call requests, even when threatened with withdrawal of future support.[233] For the reasons set forth below, the Commission, therefore, proposes to extend the coverage of this section of the Rule to include telemarketers soliciting charitable contributions or purchases of goods or services.

A seller or telemarketer has an affirmative duty under the Rule to accept a do-not-call request, and to process that request. Failure to do so by impeding, denying, or otherwise interfering with an attempt to make such a request clearly would defeat the purpose of the ''do-not-call'' provision, and would frustrate the intent of the Telemarketing Act to curtail telemarketers from undertaking unsolicited telephone calls which the reasonable consumer would consider coercive or abusive of the consumer's right to privacy. 15 U.S.C. 6102(a)(3)(A).

Therefore, the Commission proposes to specify that it is an abusive telemarketing act or practice to deny or interfere in any way with a person's right to be placed on a ''do-not-call'' list, including hanging up on the individual when he or she initiates such a request. Proposed § 310.4(b)(1)(ii) would prohibit this practice, and would also prohibit anyone from directing another person to deny or interfere with a person's right to be placed on a ''do-not-call'' list. This aspect of the provision is proposed to ensure that sellers who use third party telemarketers cannot shield themselves from liability under this provision by suggesting that the violation was a single act by a ''rogue'' telemarketer, where there is evidence that the seller caused the telemarketer to deny or defeat ''do-not-call'' requests.[234]

Section 310.4(b)(1)(iii)—''Do-Not-Call''

Section 310.4(b)(1)(ii) in the original Rule prohibits a seller or telemarketer from calling a person who has previously asked not to be called by or on behalf of the seller whose goods or services were being offered. This provision, as originally promulgated pursuant to the Telemarketing Act before the USA PATRIOT Act amendments, did not reach calls from telemarketers soliciting charitable contributions.

The ''do-not-call'' provision of the original Rule is company-specific: After a consumer requests not to receive calls from a particular company, that company may not call that consumer. Other companies, however, may lawfully call that same consumer until he or she requests each of them not to call. The effect of this provision is to permit consumers to choose those companies, if any, from which they do not wish to receive telemarketing calls. Each company must maintain its own ''do-not-call'' list of consumers who have stated that they do not wish to receive telephone calls by or on behalf of that seller. This seller-specific approach tracks the approach that the FCC adopted pursuant to its mandate under the TCPA.[235]

The Commission proposes to modify the original Rule to effectuate the USA PATRIOT Act amendments, and to provide consumers with an alternative to reduce the number of telemarketing calls they receive, *i.e.,* to place themselves on a national ''do-not-call'' registry, maintained by the Commission. The proposed modification of the Rule's treatment of the ''do-not-call'' issue would enable consumers to contact one centralized registry to effectuate their desire not to receive telemarketing calls. Telemarketers would be required to ''scrub'' their lists, removing all consumers who have placed themselves on the FTC's centralized registry. This

[229] H.R. Rep. No. 20, 103rd Congress, 1st Sess. (1993) at 8.

[230] Section 310.4(b)(1)(i) prohibits as an abusive practice ''causing any telephone to ring, or engaging any person in telephone conversation, repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number.'' NASAA stated that this provision strikes directly at one of the manipulative techniques used in high-pressure sales tactics to coerce consumers into purchasing a product and noted that it advises consumers that one of the ''warning signs of trouble'' is the ''three-call'' technique used by fraudulent sellers of securities. NASAA at 2.

[231] *See, e.g.,* Conn at 1; Gilchrist at 1; Gindin at 1; Heagy at 1; Kelly at 1; LeQuang at 1; Mack at 1; Runnels at 1.

[232] *See, e.g.,* DNC Tr. 67–68; Rule Tr. at 423–427.

[233] *See* Peters at 1.

[234] The USA PATRIOT Act amendments retain the exclusion of non-profit organizations from coverage. Therefore, this language is not intended to reach non-profit charitable organizations.

[235] P.L. 102–243, 105 Stat. 2394, codified at 47 U.S.C. 227. The FCC's regulations are set out at 47 CFR 64.1200.

proposal directly advances the Telemarketing Acts' goal to protect consumers' privacy.

In addition, the Commission proposes that consumers who have placed themselves on the FTC's national ''do-not-call'' registry could allow telemarketing calls from or on behalf of specific sellers, or on behalf of specific charitable organizations, by providing express verifiable authorization to the seller, or telemarketer making calls for or on behalf of a seller or charitable organization, that the consumer agrees to accept calls from that seller or telemarketer.[236] The proposed Rule will provide consumers with a wider range of choices than the current Rule provides: They could opt to use the FTC's centralized registry to eliminate *all* telemarketing calls from *all* sellers and telemarketers covered by the TSR; they could eliminate all telemarketing calls from all sellers and telemarketers covered by the TSR by placing themselves on the central registry, but subsequently agree to accept telemarketing calls only from or on behalf of specific sellers, or on behalf of specific charitable organizations, with respect to which they have provided express verifiable authorization; or they could opt to eliminate telemarketing calls only from specific sellers, or telemarketers on behalf of those sellers, or on behalf of charitable organizations, by using the company-specific approach in the current rule provision and the current FCC regulations.[237] The Commission proposes to set up this centralized registry for a two-year trial period, after which the Commission will review the registry's operation to obtain information about the costs and benefits of the central registry, as well as its regulatory and economic impact in order to determine whether to modify or terminate its operation.

Background. Consumer frustration over unwanted telephone solicitations is not a new phenomenon. State and federal legislators and regulators have been examining the issue since the 1960's.[238] What is new is the strength of the response to that frustration, as evidenced by, among other things, the number of States that have passed or are considering legislation to establish statewide ''do-not-call'' lists.[239] Another indication of the intensity of consumer discontent on this issue is the number of people who have placed themselves on ''do-not-call'' lists.[240] In June, 2001, the DMA reported that the number of names registered with the DMA's Telephone Preference Service (''TPS'') has grown to 4 million, up 1 million since June of 2000.[241] States report that consumers are responding in such overwhelming numbers to the State ''do-not-call'' statutes that some States'' telephone systems have crashed.[242]

[236] The proposed Rule lists two specific means of obtaining the express verifiable authorization of a consumer to receive telemarketing calls despite their inclusion on the national ''do-not-call'' list: written authorization including the consumer's signature; and oral authorization that is recorded and authenticated by the telemarketer as being made from the telephone number to which the consumer is authorizing access. The Commission expects that written authorization will be necessary in most instances because once on the national ''do-not-call'' list, a consumer could not be contacted by an outbound call to request oral authorization of future calls. Oral authorization could be obtained, however, if the consumer were to place an inbound call, and was asked by the telemarketing sales representative during that call whether he or she would consent to further telemarketing solicitations from the party called.

[237] Even if the Commission were to delete the company-specific ''do-not-call'' requirement of the original Rule, sellers and telemarketers would still be required to comply with the very similar requirements promulgated by the FCC under the TCPA.

[238] As early as 1965, the California Public Utilities Commission investigated the question of unsolicited telephone calls, rejecting the idea of a telephone directory symbol which would indicate whether the subscriber wished to receive commercial and charitable solicitations. *McDaniel v. Pacific Telephone and Telegraph Co.,* 60 PUR 3d 47 (1965). Federal legislators also began to examine the ''do-not-call'' issue a number of years ago, with proposals such as the ''Telephone Privacy Act'' (H.R. 2338), which was introduced in 1973. The FCC first examined the issue of unsolicited telephone calls in 1978, but concluded that, at that time, it was not in the public interest to subject telephone solicitation to federal regulation. *Memorandum and Order,* FCC 80–235, cc Docket No. 78–100, 77 FCC 2d 1023 (May 22, 1980). The FCC's action in this regard subsequently was superceded by Congress' enactment of the TCPA.

[239] DNC Tr. at 16, 137, 157–158. As of January, 2002, twenty (20) States had passed ''do-not-call'' statutes. Florida established the first State ''do-not-call'' list in 1987. (Fla. Stat. Ann. § 501.059.) Oregon and Alaska followed with ''do-not-call'' statutes in 1989, although, instead of a central registry, they opted to require telephone companies to place a black dot by the names of consumers who do not wish to receive telemarketing calls. (1999 Ore. Laws 564; Alaska Stat. Ann. § 45.50.475) In 1999, Oregon replaced its ''black dot'' law with a ''no-call'' central registry program. (Or. Rev. Stat. § 464.567) *See also,* article regarding Oregon law in 78 *BNA Antitrust & Trade Reg. Report* 97 (Feb. 4, 2000). After those three States adopted their statutes, there was little activity at the State level for about a decade. Then, in 1999, a new burst of legislation occurred as five more States passed ''do-not-call'' legislation—Alabama (Ala. Code § 8–19C); Arkansas (Ark. Code Ann. § 4–99–401); Georgia (Ga. Code Ann. § 46–5–17; *see also,* rules at Ga. Comp. R & Regs. r. 515–14–1); Kentucky (Ky. Rev. Stat. Ann. § 367.46955(15); and Tennessee (Tenn. Code Ann. § 65–4–401; *see also,* rules at Tenn. Comp. R & Regs. Chap. 1220–4–11). During 2000, six more States enacted ''do-not-call'' statutes—Connecticut (Conn. Gen. Stat. Ann. § 42–288a); Idaho (Idaho Code § 48–1003); Maine (Me. Rev. Stat. § 4690–A); Missouri (Mo. Rev. Stat. § 407.1098); New York (NY General Business Law § 399–z; *see also,* rules at NY Comp. R. & Regs. tit. 12 § 4602); and Wyoming (Wyo. Stat. Ann. § 40–12–301). As of January, 2002, another six States had joined the ranks—California (S.B. 771, to be codified at Cal. Bus. & Prof. Code § 17590); Colorado (H.B. 1405, to be codified at Col. Rev. Stat. § 6–1–901); Indiana (H.B. 1222, to be codified at Ind. Code Ann. § 24.4.7); Louisiana (H.B. 175, to be codified at La. Rev. Stat. 45:844.11); Texas (H.B. 472, to be codified at Tex. Bus. & Com. Code Ann. § 43.001); and Wisconsin (2001 S.B. 55, to be codified at Wis. Stat.§ 100.52). In addition, numerous States are considering laws that would create State-run ''do-not-call'' lists, including Maryland, New Jersey, South Carolina, South Dakota, Utah, Vermont, and Washington. William Raney, *Proactive Stance May Affect Pivotal Bills,* DM News (Feb. 21, 2000), p. 50; Sara Marsh, *Residents Want No-call List to Stop Telemarketers,* The Capital (Annapolis, MD) (Sept. 24, 1999), p. B1; and Mark Hamstra, *New York Senate, Assembly Pass Telemarketing Bills*, DM News (June 19, 2000) *(www.dmnews.com/articles/2000–06–19/8937.html).* The ''do-not-call'' issue has also drawn the attention of federal legislators, who have introduced several bills aimed at addressing consumers' concerns. For example, in the 106th Congress, H.R. 3180 (introduced by Rep. Salmon) would have required telemarketers to tell consumers that they have a right to be placed on either the DMA's ''do-not-call'' list or on their State's ''do-not-call'' list. This proposal also would have required all telemarketers to obtain and reconcile the DMA and State ''do-not-call'' lists with their call lists. Similar legislation was introduced in the 107th Congress by Rep. King (H.R. 232, ''Telemarketing Victim Protection Act''). In addition, on Dec. 20, 2001, Sen. Dodd introduced S.1881, the ''Telemarketing Intrusive Practices Act of 2001,'' which would require the FTC to establish a national ''do-not-call'' registry.

[240] *See, e.g.,* Letter dated Jan. 21, 2000, from James Bradford Ramsay, NARUC, to Carole Danielson, FTC, and attached News Release (''More than 40,000 Vermont households are now enrolled in the national telemarketing ''do-not-call'' registry as a result of a statewide public awareness effort . . ., a more than five-fold increase over pre-campaign levels.'') *See also*, DNC Tr. at 57–58, 87–89, 94–95 (Florida's list contains 112,568 names; Kentucky has 50,000 people enrolled; Georgia has signed up more than 180,000 people; Oregon has 74,000 names on its list). Telemarketing representatives report that about 2–5% of the consumers they call ask to be placed on a ''do-not-call'' list. DNC Tr. at 57–58, 87. Connecticut reports that almost half of its households are on a ''do-not-call'' list. DM News (June 4, 2001). More than 332,000 phone lines were listed on Missouri's ''do-not-call'' list within a short time of its passage. St. Louis Post Dispatch, p. 8 (April 9, 2001). New York reports more than 1 million households had signed up for its ''do-not-call'' list by the time it took effect on April 1, 2001. NY Times (Metropolitan Section), Section 1, p. 31 (April 1, 2001).

[241] Scott Hovanyetz, *DMA: Telemarketing Still Tops, but Problems Loom,* DM News (June 29, 2001) (wysiwyg://5/http://www.dmnews.com/cgi-bin/artprevbot.cgi?article_id=15954) Rule Tr. at 409. The TPS is a list of consumers who do not wish to receive outbound telemarketing calls. Although not advertised, it was established in 1985 and has been administered by DMA, which subsidizes the cost. DMA does not charge a fee to consumers to place their names on the TPS. DMA requires consumers to submit their request in writing and, at this time, does not permit consumers to submit their names by telephone or by electronic mail. DMA requires its members to adhere to the list; the penalty for non-compliance is expulsion from the association. Sellers and telemarketers that are not members of DMA may purchase the TPS for a fee.

[242] DNC Tr. at 88–89. A representative from the Kentucky Attorney General's Office reported: ''There has been nothing in the 200 years-plus of Kentucky's history that the Attorney General's Office has ever seen that equaled the public

Continued

Consumer commenters unanimously expressed their strong dislike of telemarketing and their desire to be free of telemarketing calls, citing the intrusiveness and inconvenience of those calls.[243] Not a single consumer comment championed telemarketing.[244] Several consumers noted that telemarketing has caused many people to change their living habits (*e.g.,* by screening calls) in order to avoid telemarketing calls.[245] Studies also have shown that consumers feel angry about the number of telemarketing calls they receive. NCL reported that in a survey conducted in 1999, 49% of consumers who responded rated telemarketing at the top of the scale of activities that bothered them.[246] A 1999 poll conducted by the State of Kentucky showed 80% of respondents found telemarketing calls to be annoying and intrusive, and only 10% found them to be helpful and informative.[247] Similarly, a 1999 survey by the Vermont Department of Public Service concerning telemarketing found only 2.7% of respondents had no objection to receiving telemarketing calls, whereas almost 88% stated that they would like all telemarketing calls to stop.[248]

Efficacy of the ''do-not-call'' provision. Industry generally supported the Rule's current company-specific approach, stating that it provides consumer choice and satisfies the consumer protection mandate of the Telemarketing Act while not imposing an undue burden on industry.[249] Several consumer commenters also stated that the current scheme works most of the time, although it does not work in every case.[250]

The vast majority of individual commenters, however, joined by consumer advocates and State law enforcement, claimed that the TSR's company-specific ''do-not-call'' provision is inadequate to prevent unwanted telemarketing calls.[251] They cited several problems with the current ''do-not-call'' scheme as set out in the FTC and FCC regulations: the company-specific approach is extremely burdensome to consumers, who must repeat their ''do-not-call'' request with every telemarketer that calls;[252] consumers'' repeated requests to be placed on a ''do-not-call'' list are ignored;[253] consumers have no way to verify that their names have been taken off a company's list;[254] consumers find that using the TCPA's private right of action [255] is a very complex and time-consuming process, which places an evidentiary burden on the consumer who must keep detailed lists of who called and when; [256] and finally, even if the consumer wins a lawsuit against a company, it is difficult for the consumer to enforce the judgment.[257]

Some of the criticisms of the efficacy of the current ''do-not-call'' scheme will be addressed by other proposed amendments to the Rule. For example, many commenters complained that they cannot exercise their private right of action because telemarketers do not identify themselves and hang up when consumers try to assert their ''do-not-call'' rights.[258] This problem is addressed through the proposed new prohibition in § 310.4(b)(1)(ii) against denying or interfering in any way with consumers' right to be placed on a ''do-not-call'' list.[259]

Proposed ''do-not-call'' provision. The Commission is mindful of the criticism that the company-specific approach in the current Rule's ''do-not-call'' provision is cumbersome and burdensome for those consumers who do not wish to receive any telemarketing calls at all. The Commission believes that the current approach is inadequate to fulfill the mandate in the Telemarketing Act that the Commission should prohibit telemarketers from undertaking ''a pattern of unsolicited telephone calls which the reasonable consumer would consider coercive or abusive of such consumer's right to privacy.'' [260] As such, the proposed modification of the Rule promotes the

response to the no-call list . . . It literally—and I mean literally—fried our telephone systems. It knocked our telephone line out . . . [Tennessee's] telephone lines have been broken down because of the overwhelming response, and their list is not even ready . . . to be implemented . . . [Georgia] had exactly the same response, that there was truly a tidal wave of people who were seeking to be on the list. When told this . . . isn't going to stop everybody from calling, people will almost inevitably say, ''If it keeps one person from calling me, I'm better off.''

[243] *See, e.g.,* Bennett at 1; Card at 1; Conway at 1; Dawson at 1; Gilchrist at 1; Gindin at 1; Heagy at 1; Hickman at 1; Johnson at 3; Kelly at 1; Lee at 1; Mack at 1; Manz at 1; McCurdy at 1; Nova53 at 1; Reynolds at 1; Runnels at 1; Schmied at 1; Ver Steegt at 1.

[244] Only two consumer comments even approached acceptance of the notion that consumers might value telemarketing calls or wish to preserve telemarketer access to their home telephone—provided telemarketers changed their practices. Johnson at 1 (Could be effective and accepted if telemarketers were not verbally abusive, did not argue when listener said not interested, and did not lie.) *See also,* Runnels at 1 (''Up until past year or two, we were always willing to answer calls from telemarketers, and asked them to put on DNC list. . . . [We] typically received polite response. . . . [But] in the past 2 years, we have received calls from telemarketers unlike anything previous.'')

[245] *See, e.g.,* Bennett at 1; Runnels at 1 (''We miss the days before telemarketers when we could invite calls from the public; we feel that the rise of telemarketing has thus had a negative impact on our relations with the community at large.'').

[246] Letter dated Jan. 20, 2000, from Susan Grant, NCL, to Carole Danielson, FTC. (''[C]onsumers were asked to rate seven everyday experiences on a scale from 1 to 10 in terms of what bothered them the most. A designation of 1 meant ''not bothered at all''; 10 indicated ''completely fed up.'' Telemarketing came in third, with 49% of the respondents giving it a top score of 10.'') The tabulation attached to NCL's letter also shows that only 14% of the respondents gave telemarketing a rating of less than 5. *Id.* The other everyday experiences rated and the percentage rated as a 10 by respondents were: Junk mail (59%); dialing a company and being answered with ''press 1 for . . .'' (54%); fine print and codes making bills difficult to understand (41%); credit card fees (40%); bank fees and ATM charges (34%); and intrusiveness of advertising and commercialism (30%). *Id.*

[247] 1999 Kentucky Spring Poll, submitted to FTC by Kentucky Office of Attorney General, Feb. 4, 2000.

[248] Letter dated Jan. 21, 2000, from James Bradford Ramsay, NARUC, to Carole Danielson, FTC, attaching Vermont survey.

[249] ARDA at 2; ATA at 8–10; Bell Atlantic at 4; DMA at 2; ERA at 6; MPA at 16; NAA at 2; NASAA at 4; PLP at 1; *see also,* DNC Tr. at 132–180.

[250] *See, e.g.,* Bennett at 1; Brass at 1; Hickman at 1; Runnels at 1.

[251] *See, e.g.,* Anderson at 1; Bennett at 1; Card at 1; Conway at 1; Garbin at 1; A. Gardner at 1; Gilchrist at 1; Gindin at 1; Harper at 1; Heagy at 1; Johnson at 1; McCurdy at 1; Menefee at 1; Mey generally; Mitchelp at 1; Nova53 at 1; Peters at 1; Rothman at 1; Vanderburg at 1; Ver Steegt at 1; Worsham at 1; NAAG at 17–19; NCL at 13–14. *See also,* DNC Tr. at 132–180.

[252] *See* Garbin at 1; NAAG at 17; Ver Steeg at 1.

[253] *See* Harper at 1; Heagy at 1; Holloway at 1; Johnson at 1; Menefee at 1; Mey generally; Nova53 at 1; Nurik at 1; Peters at 1; Rothman at 1; Runnels at 1; Schiber at 1; Schmied at 1; Vanderburg at 1.

[254] *See* McCurdy at 1; Schiber at 1.

[255] The TCPA permits a person who receives more than one telephone call in violation of the FCC's ''do-not-call'' rules to bring an action in an appropriate State court to enjoin the practice, to receive money damages, or both. The consumer may recover actual monetary loss from the violation or receive $500 in damages for each violation, whichever is greater. If the court finds that a company willfully or knowingly violated the FCC's ''do-not-call'' rules, it can award treble damages. 47 U.S.C. 227(b)(3).

[256] *See* Kelly at 1; NAAG at 17–19; NACAA at 2; NCL at 13–14.

[257] *See* Kelly at 1.

[258] *See, e.g.,* Gindin at 1; Haines at 1; Heagy at 1; Hecht at 1; Holloway at 1; Kelly at 1; LeQuang at 1; Mack at 1; Manz at 1; Merritt at 1; Runnels at 1; Sanford at 1; Schiber at 1; Thai at 1; *see also* Rule Tr. at 422–427. Some hang-ups occur when the consumer answers the telephone only to hear a ''click'' as the phone disconnects. These hang-ups are due to the use of predictive dialers, a problem that is discussed in greater detail in connection with the oral disclosures required by § 310.4(d).

[259] Other consumers complained that many companies require the consumer to use ''magic words'' in asserting their ''do-not-call'' rights. *See, e.g.,* Gilchrist at 1 (company said it did not keep a ''do-not-call'' list, but only a ''no contact'' list and would not accept consumer's request unless consumer asked to be placed on ''no contact'' list); Weltha at 1. The Commission was very clear in the Statement of Basis of Purpose that any form of ''do-not-call'' request is sufficient, and no ''magic words'' are necessary to provide notice: ''Any form of request that the consumer does not wish to receive calls from a seller will suffice. An oral statement as simple as ''Do not call again'' is effective notice.'' 60 FR at 43855.

[260] 15 U.S.C. 6102(a)(3)(A).

Act's privacy protections. These consumers would benefit from a national registry they could contact to request to receive no telemarketing calls from or on behalf of any seller, or on behalf of any charitable organization, whatsoever. In fact, many commenters supported the concept of a national ''do-not-call'' database.[261] Consumers and State law enforcement representatives stated that a national ''do-not-call'' list would provide a ''one-stop'' method of allowing consumers to reach many telemarketers quickly and would enhance consumers' ability to assert their ''do-not-call'' rights.[262]

Some industry representatives also supported a national ''do-not-call'' list, stating that it would be preferable to a patchwork of 50 different State ''do-not-call'' laws.[263] Industry representatives generally expressed concern about the proliferation of State telemarketing laws, including ''do-not-call'' statutes, indicating that complying with myriad State laws imposes significant economic costs to business.[264] The Commission recognizes that this is very important, and requests comment on the interplay between the national registry and State ''do-not-call'' schemes and poses a number of questions in Section IX of this Notice specifically designed to elicit information on this issue.

A national registry would eliminate many of the burdens to consumers of the company-specific approach. They would only have to register once in order to make their preferences known to all telemarketers under the FTC's jurisdiction, instead of having to make the same request to many companies. Moreover, this proposed revision addresses industry's suggestion that consumers may not desire an all-or-nothing approach to telemarketing calls. Consumers who wish to receive telemarketing calls only from specific companies could place themselves on the national registry, but provide express verifiable written authorization to specific sellers in which they agree to accept telemarketing calls from those sellers. Alternatively, consumers who do not object to telemarketing calls generally but do not want such calls from or on behalf of specific sellers or on behalf of specific charitable organizations would still be able to choose to use the company-specific approach set up by the FCC, also embodied in § 310.4(b)(1)(iii)(A) of the proposed Rule.

Industry representatives expressed skepticism about the need to strengthen the ''do-not-call'' provisions of the Rule. In this regard, they advanced two arguments. First, they asserted that sellers and telemarketers covered by the Rule generally comply with the ''do-not-call'' provisions, and that non-covered entities—*e.g.,* banks, non-profit organizations, and companies engaged in common carrier activity—are the primary source of consumer complaints about ''do-not-call'' requests being ignored.[265] The extension of TSR coverage, pursuant to the USA PATRIOT Act amendments, to encompass telemarketing calls to solicit charitable contributions will increase the range of covered calls and presumably decrease complaints about do-not-call compliance. Industry's second argument is that although many consumers may broadly express the view that they would prefer not to receive any telemarketing calls, when it comes down to particulars, their true wishes may be somewhat different.[266] The same consumers who say they would like to stop receiving telemarketing calls may actually welcome certain types of telemarketing calls—for example, special sale price offers from companies with which they have previously transacted business. The proposed Rule addresses this concern because consumers could selectively agree to receive calls from specific companies, or from telemarketers on behalf of specific charitable organizations, or could still choose the company-specific approach set up by the FCC's regulations.

Taking all the record evidence into account, the Commission proposes to amend the Rule to provide consumers with the option to contact a national registry maintained by the Commission to indicate that they do not wish to receive any telemarketing calls, and, in addition, to provide express verifiable written authorization to a seller or charitable organization in which they agree to accept telemarketing calls from or on behalf of that seller or on behalf of that charitable organization.

Relationship to FCC regulations. The Commission's proposed amendment to its ''do-not-call'' provision is consistent with the FCC's regulations. Companies can comply with both regulations. The Commission intends that its proposed ''do-not-call'' provision not be construed to permit any conduct that is precluded or limited by FCC regulations. For example, the FTC does not intend that anything in the TSR or this Notice provide any basis to argue that the FCC is precluded from requiring that a ''do-not-call'' list be maintained for a specific period of time, or for a period of time that may be greater than may be required under the FTC's Rule. Similarly, nothing in the TSR or this Notice provides any support for an assertion that the FCC cannot require a company's written ''do-not-call'' policy be provided to consumers upon request.

In this respect, several industry commenters pointed out that the FCC has issued an interpretation stating that the TCPA does not require companies to accept ''do-not-call'' lists from third-party organizations.[267] These commenters asked the Commission to clarify whether the TSR requires them to accept ''do-not-call'' lists from third parties. The Commission believes that its proposed national registry will obviate industry members' uncertainty about whether to accept ''do-not-call'' lists from third parties. The Commission believes that the proposed ''do-not-call'' provision is sufficiently simple and accessible for consumers that they are unlikely to turn to third-party alternatives.

Related to this issue is the question of whether the national registry might be presented with consumer ''do-not-call'' requests compiled by third parties. The Commission recognizes that third-party lists, if presented, may not provide either the level of accuracy or consumer choice of call preferences available through the national registry. Moreover, to ensure that only the consumers who actually wish to be on the ''do-not-call'' registry are placed there, it is anticipated that enrollment on the national registry will be required to be made by the individual consumer from the consumer's home telephone. The Commission, therefore, requests comment on what the costs and/or benefits might be to the incorporation or refusal of third-party consumer lists by certified registries. In addition, the

[261] *See, e.g.,* ARDA at 4; Bennett at 1; Card at 1; Collison at 1; Conway at 1; Dawson at 1; A. Gardner at 1; Gibb at 1; Gilchrist at 1; Gindin at 1; McCurdy at 1; Mey at 2; NAAG at 18; NACAA at 2; NCL at 14; NFN at 2–3; Schmied at 1.

[262] *See, e.g.,* Bennett at 1; Card at 1; Collison at 1; Conway at 1; Dawson at 1; A. Gardner at 1; Gibb at 1; Gilchrist at 1; Gindin at 1; McCurdy at 1; NAAG at 17–19; NACAA at 2; NCL at 14; Schmied at 1.

[263] *See, e.g.,* ARDA at 4; NFN at 2–3.

[264] *See, e.g.,* ARDA at 2–4; ATA at 6–8; Bell Atlantic at 4–7; DMA at 6–7; Gannett at 1; KTW at 3–4; MPA at 11, 16; NFN at 2; Reese at 3, 11–12; Verizon at 2–3.

[265] DMA at 4–5; ERA at 4; DNC Tr. 96–99, 132–133. The Commission notes that, although certain entities such as non-profit organizations, companies engaged in common carrier activity, and banks may be exempt from the FTC Act, any third-party telemarketer hired by an exempt entity to conduct its telemarketing activities *would* be covered by the TSR. *See* 60 FR at 43843.

[266] *See, e.g.,* DNC Tr. 108, 164.

[267] *See* DMA at 7–8; NAA at 4; and Letter dated Aug. 19, 1998, from Geraldine A. Matise, FCC to James T. Bruce, Wiley, Rein & Fielding.

Commission requests comment on whether verification should occur and, if so, what form the verification should take.

Finally, several industry representatives asked the Commission to set a single national standard for how long a company may take to place a consumer on its ''do-not-call'' list.[268] With regard to company-specific lists, the Commission declines to second-guess the FCC's ruling. There is insufficient evidence in the record to justify such action that would introduce the specter of inconsistency between the two sets of regulations. With regard to the national registry, under proposed § 310.4(b)(2)(iii), a seller or telemarketer will not be held liable for violating the ''do-not-call'' requirements of §§ 310.4(b)(1)(ii) and (iii) if, among other things, it obtains and reconciles on no less than a monthly basis the names and/or telephone numbers of those persons who have been placed on the national registry.

Section 310.4(b)(3)—Commission Review

Proposed § 310.4(b)(3) sets out the Commission's intention to review the operation of its national registry after two years. During that review, the Commission will obtain information about the costs and benefits of the central registry, as well as its regulatory and economic impact. Based on the information received, the Commission will determine whether to modify aspects of the registry's operation or whether to terminate the registry's operation.

Section 310.4(b)(2)—''Do-Not-Call Safe Harbor''

Section 310.4(b)(2) provides sellers and telemarketers with a limited safe harbor from liability for violating the ''do-not-call'' provision found in proposed § 310.4(b)(1)(iii). During the original rulemaking, the Commission determined that sellers and telemarketers should not be held liable for calling a person who previously asked not to be called if they had made a good faith effort to comply with the Rule's ''do-not-call'' provision and the call was the result of error. The Rule established four requirements that a seller or telemarketer must meet in order to avail itself of the safe harbor: (1) It must establish and implement written procedures to comply with the ''do-not-call'' provision; (2) it must train its personnel in those procedures; (3) it must maintain and record lists of persons who may not be contacted; and (4) any subsequent call must be the result of error.

These criteria tracked the FCC's regulations, which set forth the minimum standards that companies must follow to comply with the TCPA's ''do-not-call'' provision.[269] Proposed § 310.4(b)(2) contains three additional requirements that must be met before sellers or telemarketers may avail themselves of the ''safe harbor'': (1) Sellers and telemarketers must obtain and reconcile on not less than a monthly basis the names and/or telephone numbers of persons who have been placed on the Commission's national registry; (2) for those consumers whose telephone numbers are in the national registry but who have agreed to accept telemarketing calls from or on behalf of the seller, or on behalf of a specific charitable organization, the seller and telemarketer must maintain the consumers' express verifiable authorizations to call; and (3) sellers and telemarketers must monitor compliance and take disciplinary action for non-compliance. Although these criteria are not among the minimum standards contained in the FCC's regulations for the TCPA company-specific ''do-not-call'' regime, the additional criteria in the proposed Rule do not conflict with the FCC regulations. As discussed above, the FCC regulations are silent as to any requirement to reconcile names or numbers from a national registry because the FCC regulations relate only to company-specific lists.[270] Therefore, any FTC requirement about obtaining and reconciling telephone numbers placed in a national registry would not conflict with the FCC's regulations. Similarly, the FCC regulations are silent as to the requirement to monitor compliance and take action to correct any non-compliance, or to maintain evidence of express verifiable written authorization to accept telemarketing calls. Thus, the proposed Rule would not conflict with the FCC's regulations. As discussed more fully below, the Commission believes that it is necessary for the proposed Rule to diverge from the FCC regulations by imposing a monitoring requirement in the ''safe harbor'' provision in order to clarify the applicability of the safe harbor.

Commenters generally supported the safe harbor, stating that strict liability is inappropriate where a company has made a good faith effort to comply with the Rule's requirements and has implemented reasonable procedures to do so.[271] NASAA noted that it was good public policy to reward firms that have been proactive in attempting to comply with the Rule, and that such a safe harbor provides guidelines for industry ''best practices.''[272] The same rationale applies with equal force to allowing telemarketers that solicit charitable contributions to avail themselves of the safe harbor.

The Commission continues to believe that the Rule should contain a safe harbor provision for violations of its ''do-not-call'' provision. Sellers or telemarketers who have made a good faith effort to provide consumers or donors with an opportunity to exercise their ''do-not-call'' rights should not be liable for violations that result from error.[273] The Commission believes the same rationale applies to potential violations of proposed § 310.4(b)(1)(ii), and therefore proposes to modify the introductory sentence of § 310.4(b)(2) to provide a safe harbor for violations of *both* proposed §§ 310.4(b)(1)(ii) and (iii). Section 310.4(b)(1)(ii) prohibits a seller or telemarketer from denying or interfering with a person's right to be placed on a ''do-not-call'' list, whereas § 310.4(b)(1)(iii) prohibits calling a person who has previously requested to be placed on such a list. The original Rule provided safe harbor protection only for violations of the ''do-not-call'' provision. The proposed Rule would expand that safe harbor protection to violations of the provision that prohibits denying or interfering with the consumer's or donor's right to be placed on a ''do-not-call'' list.

However, while expanding the scope of the safe harbor provision, the Commission also proposes to tighten it by requiring sellers and telemarketers to monitor compliance and take disciplinary action for non-compliance in order to be eligible for the safe harbor. Proposed § 310.4(b)(2)(vi)

[268] *See* DMA at 5–6; KTW at 5; NFN at 1–2.

[269] 47 CFR 64.1200(e)(2).

[270] The FCC regulations require companies to reconcile ''do-not-call'' requests for company-specific lists on a continuing or ongoing basis. Specifically, 47 CFR 64.1200(e)(2)(iii) requires the seller or telemarketer to record the consumer's ''do-not-call'' request and place the consumer's name and telephone number on the company's ''do-not-call'' list at the time the request is made. The TSR is silent as to how frequently a company must reconcile ''do-not-call'' requests for company-specific lists.

[271] *See* ARDA at 4; ERA at 6; NASAA at 3.

[272] NASAA at 3.

[273] The Commission recognizes that the implementation of proposed national ''do-not-call'' list will present logistical challenges such as a viable means of purging from the list telephone numbers which have been, subsequent to their inclusion on the national ''do-not-call'' list, reassigned to new customers. The Commission has included, in Section IX of this Notice, questions about how best to accomplish this, as well as whether to include in the Rule safe harbor provisions addressing calls made to such numbers.

requires the seller or telemarketer to monitor and enforce compliance with the procedures established in § 310.4(b)(2)(i).

Numerous commenters described the problems they had encountered in attempting to assert their ''do-not-call'' rights and with companies that continued to call after the consumer asked not to be called.[274] This anecdotal evidence indicates that some entities may not be enforcing employee compliance with their ''do-not-call'' policies. In fact, one consumer reported that telemarketers for two different companies told her that it was not necessary that a company's ''do-not-call'' policy be effective, only that such a policy exist.[275]

To clarify this apparent misconception about the Rule's requirements, proposed § 310.4(b)(2)(iii) would require that, in order to avail themselves of the safe harbor provision, sellers and telemarketers must be able to demonstrate that, in the ordinary course of business, they monitor and enforce compliance with the written procedures required by § 310.4(b)(2)(i). For example, it is not enough that a seller or telemarketer has written procedures in place; the company must be able to show that those procedures have been and *are implemented* in the regular course of business. Thus, a seller or telemarketer cannot take advantage of the safe harbor exemption in § 310.4(b)(2) unless it can demonstrate that it actually trains employees in implementing its ''do-not-call'' policy, and enforces that policy.

Section 310.4(c)—Calling Time Restrictions

Section 310.4(c) prohibits telemarketing calls before 8:00 a.m. and after 9:00 p.m. local time at the called person's location. Several commenters suggested that the Commission change the calling time restrictions in § 310.4(c), stating that unwanted telemarketing calls are particularly abusive when received during the hours around dinner time.[276] One commenter suggested that only the consumer should be allowed to determine what are convenient calling times, while others suggested other restrictions, such as permitting calls only between 9 a.m. and 5 p.m.[277] The Commission believes the current calling time restrictions provide reasonable protections for the consumer's privacy while not unduly burdening industry. Moreover, the current provision is consistent with the FCC's regulations under the TCPA.[278] As the Commission discussed in the Rule's Statement of Basis and Purpose, by altering the permitted calling hours under the Rule, the Commission would introduce a conflict in the federal regulations governing telemarketers.[279] The record on this issue has not provided any new evidence that would warrant a change that would produce such a result. However, the Commission has posed questions in Section IX of this Notice asking whether it might be workable to allow consumers to select to receive telemarketing calls only on certain days or during certain hours. The Commission poses the questions about the costs and benefits of selective day and time opt out to provide similar flexibility for consumers and telemarketers in developing a schedule for telemarketing that would be mutually agreeable.

Pursuant to Section 1011 of the USA PATRIOT Act, the Commission proposes to expand the coverage of this prohibition to encompass calls made by telemarketers, whether on behalf of sellers or charitable organizations, that are made outside the permissible hours set forth in this provision.

Section 310.4(d)—Required Oral Disclosures To Induce Purchases of Goods or Services

Section 310.4(d) sets out certain oral disclosures that telemarketers must promptly make in any outbound telephone call made to induce the purchase of goods or services. Commenters generally supported this provision, but suggested several modifications or clarifications. Those suggestions and the Commission's reasoning in accepting or rejecting them are discussed in detail below. In summary, the Commission has determined to retain the wording of § 310.4(d) with two relatively minor modifications. First, the Commission proposes to insert, after the phrase ''in an outbound telephone call,'' the phrase '' to induce the purchase of goods or services.'' This will clarify that § 310.4(d) applies only to telemarketing calls made to induce sales of goods or services (in contrast to proposed new § 310.4(e), which contains an analogous phrase clarifying that § 310.4(e) will apply to calls made ''to induce a charitable contribution''). Second, the Commission proposes to modify § 310.4(d)(4) to require that the telemarketer disclose that a purchase will not enhance a customer's chances of winning a prize or sweepstakes.

Section 310.4(d)(4)—Sweepstakes Disclosure

The Telemarketing Act directed the Commission to include in the TSR provisions addressing specific ''abusive'' telemarketing practices, including the failure to ''promptly and clearly disclose to the person receiving the call that the purpose of the call is to sell goods or services and make such other disclosures as the Commission deems appropriate, including the nature and price of the goods and services.'' [280] Section 310.4(d)(4) requires that a telemarketer promptly disclose that no purchase or payment is necessary to be eligible to win a prize or participate in a prize promotion if a prize promotion is offered. In the original rulemaking, the Commission determined, based on its extensive law enforcement experience, that fraudulent telemarketers had frequently used sweepstakes promotions to disguise the fact that the purpose of the call is to sell goods or services.[281]

NCL recommended that this provision be modified to require the telemarketer to disclose that making a purchase will not improve a customer's chances of winning.[282] NCL noted that this disclosure would be consistent with the requirements for direct mail solicitations under the DMPEA.[283]

Since the original rulemaking, law enforcement experience and the legislative history of the DMPEA strongly suggest that many consumers, particularly the elderly, get the impression, based on the overall presentation of a prize promotion, that purchasing something enhances their chances of winning.[284] Creating such an impression undermines one of the protections the Telemarketing Act intended to provide: keeping the purpose of a telemarketing call—to sell goods or services—clearly in the

[274] *See, e.g.,* Bennett at 1; A. Gardner at 1; Gilchrist at 1; Gindin at 1; Harper at 1; Heagy at 1; Johnson at 3; McCurdy at 1; Menefee at 1; Mey, generally; Nova53 at 1; Peters at 1; Runnels at 1.

[275] Mey at 2.

[276] *See, e.g.,* Conway at 1; Garbin at 1; Hickman at 1; McCurdy at 1; Nurik at 1. NASAA indicated that it supports this provision, which has also been adopted by the National Association of Securities Dealers (''NASD'') in their Telemarketing Conduct Rule 2211(a), because it prevents and limits abusive and high-pressure sales tactics. NASAA at 2.

[277] *See* Conway at 1; Hickman at 1; Garbin at 1; McCurdy at 1.

[278] 47 CFR 64.1200(e)(1): ''No person or entity shall initiate any telephone solicitation to a residential telephone subscriber before the hour of 8:00 a.m. or after 9:00 p.m. (local time at the called party's location).''

[279] 60 FR at 43855.

[280] 15 U.S.C. 6102(a)(3)(C).

[281] 60 FR 43857.

[282] *See* NCL at 9.

[283] *Id.* 39 U.S.C. 3001(k)(3)(A)(II).

[284] *See* discussion above regarding proposed changes to § 310.3(a)(1)(iv).

forefront from the start of the call.[285] Therefore, the Commission proposes that § 310.4(d)(4) be amended to require that a telemarketer in an outbound call disclose promptly and in a clear and conspicuous manner to the customer receiving the call that making a purchase will not improve the customer's chances of winning. This disclosure would clarify for consumers that any sweepstakes or prize promotion is separate from the sale of the product and thus is consistent with the Act's mandate to prohibit telemarketers from failing to disclose the purpose of the call, as well as the nature and price of the goods and services to be sold.

Section 310.4(e)—Required Oral Disclosures To Induce Charitable Contributions

Section 1011(b)(2)(D) of the USA PATRIOT Act mandates that the Commission include in the TSR provisions that address abusive practices:

> a requirement that any person engaged in telemarketing for the solicitation of charitable contributions, donations, or gifts of money or any other thing of value, shall promptly and clearly disclose to the person receiving the call that the purpose of the call is to solicit charitable contributions, donations, or gifts, and make such other disclosures as the Commission considers appropriate, including the name and mailing address of the charitable organization on behalf of which the solicitation is made.

Accordingly, the Commission proposes to add new section 310.4(e), specifying that ''it is an abusive telemarketing act or practice and a violation of this Rule for a telemarketer, in an outbound telephone call to induce a charitable contribution, to fail to disclose truthfully, promptly, and in a clear and conspicuous manner to the person receiving the call * * * (1) the identity of the charitable organization on behalf of which the request is being made; and (2) that the purpose of the call is to solicit a charitable contribution.''

A TSR provision requiring disclosure of the purpose of the call is mandated by section 1011(b)(2)(D). Proposed TSR § 310.4(e)(2) therefore, requires that disclosure. In addition, pursuant to the discretionary authority under § 1011(b)(2)(D) to require other prompt and clear disclosures (including the charitable organization's name), proposed TSR § 310.4(3)(2) would also require disclosure of the identity of the charitable organization. Prompt disclosure of this information is the minimum necessary for a prospective donor to know whether he or she wishes to allow the solicitation to continue—and ultimately, whether he or she wishes to donate.[286]

As noted, the statute specifically mentions a charitable organization's mailing address as another disclosure within the Commission's discretion to require. The statute, however, does not require the Commission to adopt such a requirement, and accordingly, the Commission does not propose to do so. Such a requirement may impose costs on charities and telemarketers but produce few if any benefits—although possibly considerable annoyance—on the part of individuals interested only in abbreviating the call. In Section IX of this notice the Commission therefore has included questions on this issue specifically designed to elicit information as to whether such a disclosure would be appropriate or necessary. For example, the Commission asks whether the purposes of the USA PATRIOT Act could best be served by requiring prompt disclosure of this information only when the donor is interested enough to ask for it. In such a case, non-disclosure could possibly result in consumer harm, since absent a TSR requirement to disclose this information, consumers would likely have little alternative means to obtain it as a starting point in verifying the *bona fides* of a purported charitable organization requesting a donation. The Commission specifically seeks additional comment and information on this issue.

Other Recommendations by Commenters Regarding Allegedly Abusive Practices

Commenters raised additional issues related to abusive practices, urging the Commission to add to the list of practices prohibited by the TSR as abusive. These commenters were concerned about several practices: The use of predictive dialers; prison-based telemarketing; telemarketers' use of courier services to pick up payments from consumers; telemarketers' targeting of vulnerable groups; and the sale of victim lists. In addition, several commenters asked the Commission to define the word ''promptly'' in § 310.4(d). A number of commenters also asked the Commission to clarify when the disclosures required by that provision should be given in the case of multiple purpose calls and recommended that § 310.4(d) be amended to address multiple purpose calls by requiring that telemarketers promptly disclose the cost of the product or service before mentioning any sweepstakes or other purpose of the call. Finally, one commenter recommended that the Commission amend § 310.4(d) to require that telemarketers disclose the address and telephone number of the telemarketer. Each of these recommendations, and the reasoning behind the Commission's response to them, are discussed in detail below.

Predictive Dialers. A predictive dialer is an automatic dialing software program that, through a complex set of algorithms, automatically dials consumers' telephone numbers in a predetermined manner and at a predetermined time such that the consumer will answer the phone at the same time that a telemarketer is free to take the call.[287] These software programs are set up to predict when a telemarketer will be free to take the next call, in order to minimize the amount of downtime for the telemarketer.[288] In some instances, however, when a consumer answers the phone, there is no telemarketer free to take the call. In those instances, the predictive dialer disconnects the call and the consumer either hears nothing (''dead air'') or hears a click as the dialer hangs up.[289]

A major theme throughout the comments has been consumer frustration with the ''hang-ups'' and dead air associated with the industry's use of predictive dialers.[290] In fact, a representative from one Washington, DC area consumer protection agency reported that the problem of dead air calls due to the use of predictive dialers is the single largest complaint his organization receives regarding telemarketing.[291]

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[285] 15 U.S.C. 6102(a)(3)(C).

[286] The Commission is mindful that under *Riley* v. *Nat'l Fed. of the Blind,* 487 U.S. 781 (1988), the range of affirmative disclosures that can be required, consistent with strong First Amendment protection of charitable fundraising, is strictly constrained. However, the Commission believes such a narrowly tailored disclosure is permitted by the First Amendment. *See id.* at 799 n.11.

[287] *See* DNC Tr. at 34, 46.

[288] *See* DNC Tr. at 34.

[289] Another cause of dead air is slow connect times that create a delay between the consumer saying ''hello'' and the agent getting a tone in his or her ear. The agent does not hear the initial ''hello.'' The consumer who hears only dead air after saying ''hello'' generally hangs up the phone after a few seconds. Clifford G. Hurst, *Will We Kill the Goose?* 11 Teleprofessional, Nov. 1998, at 70.

[290] *See, e.g.,* Bishop at 1; Braddick at 1; Croushore at 1; Dawson at 1; Haines at 1; Hecht at 1; Mack at 1; Manz at 1; McCurdy at 1; Merritt at 1; Nova53 at 1; Sanford at 1; Strang at 1. *See also* DNC Tr. at 21, 39–40; Rule Tr. at 10, 52–55, 61–62.

[291] *See* Rule Tr. at 55–56 (''During the last two or three years, we've conducted numerous seminars * * * for senior citizens, and the single biggest complaint in all of those seminars without fail has been [what is referred to as] dead ringers, senior citizens who go and answer the phone, there's nobody there. They either think they're being stalked or they * * * may think [a relative who is

Consumer commenters expressed extreme frustration and anger at having to drop whatever they may be doing and race to the telephone only to be met with dead air.[292] This inconvenience can be particularly troublesome for the elderly or infirm who must struggle just to get to the telephone, only to find no one on the line when they answer. These consumers often feel frightened, threatened, or harassed over these experiences, since there is no way for the consumer to tell whether such calls are placed by a telemarketer or by some sinister caller, such as a stalker, or a burglar to determine if someone is home.[293] In addition, when the predictive dialer disconnects the call, the consumer often has no effective way to determine from whom the call originated and thus to whom he or she should direct a ''do-not-call'' request; or, if the consumer has placed his or her name or number on a ''do-not-call'' list or registry, the consumer often has no effective way to determine which company is ignoring the consumer's ''do-not-call'' request.[294] Thus, predictive dialers can thwart consumers'' attempts to protect their rights to privacy by placing themselves on a ''do-not-call'' list.

Predictive dialers are not a new phenomenon. The telemarketing industry has used these devices for many years.[295] However, their use has increased dramatically in the past decade.[296] Predictive dialers have become prevalent in the telemarketing industry because a dialer reputedly can significantly increase a telemarketer's productivity as measured by the amount of downtime between calls.[297] Each telemarketing company can set its predictive dialer software for a predetermined abandonment rate, *i.e.,* the percentage of hang-up calls the system will allow—the higher the abandonment rate, the higher the number of hang-up calls. High abandonment rates can ensure that each telemarketing sales representative will spend the maximum possible number of minutes per hour talking with customers. However, the more rapidly the dialer places calls, the more probable it is that the telemarketers will still be on previously placed calls and not be available when the consumer picks up the phone. When no telemarketer is available, the predictive dialer disconnects the call.[298]

The industry acknowledges the validity of consumer objections to the negative effects of predictive dialers and has attempted to be responsive to the increasing consumer frustration over the ''hang-ups'' and dead air calls. In January 1999, the DMA established guidelines for its members which recommend an abandonment rate as close to zero as possible, with a maximum acceptable abandonment rate of no greater than 5 percent of answered calls per day in any campaign.[299] The DMA guidelines also limit the number of times a marketer can abandon a consumer's telephone number in one month. According to the DMA guidelines, if a marketer has abandoned a call to a particular number twice in one month, the marketer should not call that person again unless the call is placed manually by a sales representative.[300] However, these guidelines are voluntary and some critics of the telemarketing industry claim that some companies have abandonment rates that are substantially higher than the recommended 5 percent.[301]

As a result of increased consumer outrage over the number of abandoned calls, the DMA is considering reducing the maximum recommended abandonment rate from 5 percent to some lower number.[302] Theoretically, the dialer could be set to a zero abandonment rate, where a telemarketer would be available for each call answered by a consumer. Industry members claim, however, that a zero abandonment rate would lose any efficiencies that are gained by the use of a predictive dialer.[303] They argue that at a zero abandonment rate, they might as well have telemarketers manually dialing telephone numbers.[304]

The Commission in no way condones a practice that enables industry to shift some of its operational costs to

ill] tried to call them, and they actually place calls to emergency personnel saying, ''Can you go check on my sister or my aunt or uncle'' because of the fact that there's nobody there on the line.'').

[292] *See, e.g.,* Bishop at 1; Braddick at 1; Croushore at 1; Dawson at 1; Haines at 1; Hecht at 1; Mack at 1; Manz at 1; McCurdy at 1; Merritt at 1; Nova53 at 1; Sanford at 1; Strang at 1; DNC Tr. at 21, 39–40; Rule Tr. at 10, 52–55. *See also,* Martha McKay, ''*Nuisance Calls Hit New High: Now Telemarketers Hang Up,*'' Bergen (Co. NJ) Record (Jan. 30, 2000), at A1.

[293] *See, e.g.,* Bishop at 1; Haines at 1; Hecht at 1; Manz at 1; McCurdy at 1; Rule Tr. at 52–56, 61–62. Private Citizen related an incident involving one consumer who had 400 abandoned calls in a one-year period and, thinking it was a stalker, put an alarm system on her house and quit her job to watch her children. The abandoned calls turned out to have come from a telemarketer using a predictive dialer. Rule Tr. at 52–53. *See also,* Mark Hamstra, *DMA to Explore Predictive Dialer Abandon Rates,* DM News (Feb. 21, 2000), at 1 (DMA reports some consumers saying they thought they were being stalked or harassed.).

[294] As discussed earlier with regard to blocking of caller identification information, many telemarketers use lines that cannot transmit caller identification. Thus, consumers have no way of knowing who called because the consumer's Caller ID device displays only a message that the identity of the caller is ''unavailable'' or some similar phrase.

[295] By the mid-1980's, call center technology was fairly simple, with only a few software applications and predictive dialer manufacturers to choose from. Rich Tehrani, ''*Oh, What Changes Time Hath Wrought,*'' 6 Call Ctr. Solutions, Dec. 1, 1999 at 18.

[296] Hurst, *Will We Kill the Goose?* at 70 (''In just eight years, predictive dialers have come to dominate outbound telemarketing.'').

[297] Predictive dialer manufacturers claim that dialers can triple the time a telemarketer spends talking on the telephone and increase productivity by 200 to 300 percent. *See* McKay, ''*Nuisance Calls,* at A1. According to one manufacturer's representative, ''[w]hen people dial manually, they can talk for maybe 15 minutes out of an hour; a predictive dialer can increase talk time up to 45 minutes per hour. *Id.* (quoting Rosanne Desmone, spokeswoman for Virginia-based EIS International Inc., a maker of predictive dialing systems). *See also,* Hamstra, *DMA to Explore Predictive Dialer Abandon Rates,* at 1 (stating that telemarketing agents can be twice as productive in a predictive dialer call center, spending an average of 45 minutes of each hour talking with customers compared to 22 minutes or less in a center that uses manual dialing).

[298] McKay, *Nuisance Calls,* at A1; Hamstra, *DMA to Explore Predictive Dialer Abandon Rates* at 1. *See also,* Rule Tr. at 50–51;57–58.

[299] *See* DMA, ''The DMA Guidelines for Ethical Business Practice,'' revised August, 1999, available at: *www.the-dma.org/library/guidelines/ethics/guidelines.shtml#6* (Article #38, Use of Predictive Auto Dialing Equipment); Rule Tr. at 60. *See also,* Hamstra, *DMA to Explore Predictive Dialer Abandon Rates* at 1.

[300] *See* ''The DMA Guidelines for Ethical Business Practice,'' Article #38. *See also* Rule Tr. at 60–61.

[301] McKay, *Nuisance Calls,* at A1 (quoting Robert Bulmash of Private Citizen, who estimates that some telemarketers set the abandonment rate as high as 40 percent). *See also,* Hamstra, *DMA to Explore Predictive Dialer Abandon Rates* at 1 (explaining that DMA's Ethics Committee meets with members who fail to abide by the guidelines, and a member who continues to be noncompliant may have its membership terminated).

[302] *See* Hamstra, *DMA to Explore Predictive Dialer Abandon Rates* at 1. *See also* Rule Tr. at 61. State legislators also have taken note of consumer dissatisfaction with abandoned calls. Although several States, including California, Maryland, Minnesota and Kansas, have considered legislation prohibiting or restricting the use of predictive dialers, only Kansas and California have passed such legislation. The Kansas bill, which was possibly the first to address the dead air issue, took effect June 1, 2000, and requires that either a ''live'' operator or a recorded message be available within 5 seconds of the call's connection with a Kansas consumer. Technically, this statute prohibits abandoned calls. *See* Kan. Stat. Ann. § 50–670(b)(6) (1999 Supp.) The California bill, which was signed on October 10, 2001, prohibits making a telephone connection for which no person is available for the person called. The bill directs the California Public Utilities Commission to establish an acceptable error rate, if any, before July 1, 2002. *See,* A.B. 870 (to be codified at Cal. Pub. Utilities Code § 2875.5). *See also,* C. Tyler Prochnow, *Keeping an Eye on Outbound Calling,* DM News, Sept. 18, 2000, p. 48; and *Telemarketer Fight a Real Call to Arms,*'' LA Times, Part A, Part 1, page 1 (September 9, 2001). *See also,* Hamstra, *DMA to Explore Predictive Dialer Abandon Rates* at 1.

[303] *See* Rule Tr. at 56–57.

[304] Rule Tr. at 50–51, 56–58, 60–61. *See also,* Hamstra, *DMA to Explore Predictive Dialer Abandon Rates* at 1.

consumers, who receive in return little, if any, benefit. The Commission, however, recognizes the tension between consumer privacy on the one hand and industry productivity on the other. In general, the Commission seeks to avoid unnecessary burdens on industry while maximizing consumer protections. In this instance, however, regardless of the increased productivity that predictive dialers provide to the telemarking industry, the harm to consumers is very real and falls squarely within the areas of abuse that the Telemarketing Act explicitly aimed to address. Using predictive dialers in a way that produces many abandoned calls is a practice that clearly ''the reasonable consumer would consider coercive or abusive of such consumer's right to privacy.'' [305] In this regard, moreover, one fact is clear: Telemarketers who abandon calls are violating § 310.4(d) of the Telemarketing Sales Rule. Section 310.4(d) requires that a telemarketer promptly and clearly dispose specified information to the person receiving the call. The Commission intends for the phase ''receiving the call'' to mean when the consumer answers the telephone. Once the consumer answers the telephone, the consumer has ''received the call'' for purposes of the Rule; the required disclosures must then be made. Once the consumer has answered the telephone, the telemarketer violates § 310.4(d) if the telemarketer disconnects the call without providing the required disclosures.

Section 310.4(d) rests on an essential balancing of the interests of telemarketers and those of consumers. In exchange for permitting what is in effect the seller's unsolicited intrusion upon a consumer's privacy and an encroachment on her time, the Rule requires only that the seller expeditiously provide the consumer with information she needs to efficiently and quickly reach a decision as to whether she will extend the conversation and allow a greater imposition on her time and her privacy, based on her interest in the offer. This balance goes seriously awry when telemarketers, in their own self-interest, employ a practice that provides consumers with only dead air yet imposes the same, if not greater, costs on consumers as does a call that actually allows them to learn who is offering to sell them something, and what is being offered. Abandoned calls rob consumers of the benefit of actually being able to consider an offer that might have made worthwhile the intrusion on their privacy and the encroachment on their time. The balance is further distorted by the fact that an abandoned call provides no opportunity for the consumer to assert a ''do-not-call'' request; and, thus, no opportunity to exercise any sovereignty whatsoever over future such intrusions on her privacy and encroachments on her valuable time.

The Commission seeks recommendations regarding alternative approaches to the use of predictive dialers. For example, should the Commission mandate a maximum setting for abandoned calls, and, if so, what should that setting be? Would it be feasible to limit the use of predictive dialers to only those telemarketers who are able to transmit Caller ID information, including a meaningful number that the consumer could use to return the call? Would providing consumers with this information alleviate the injury consumers are now sustaining as a result of predictive dialer practices? Section IX sets out questions to elicit suggestions for regulatory alternatives to the Commission's proposed action regarding predictive dialers.

Use of prisoners as telemarketers. The Commission received several comments describing the problems that can occur when sellers or telemarketers use prison inmates to telemarket goods or services, and recommending that the Commission ban the use of prisoners as telemarketers or, in the alternative, tightly regulate the use of such labor, including requiring that inmates disclose their status as prisoners when they make calls to, or receive calls from, the public.[306] In addition, this issue received considerable attention during the July Forum.[307]

Prison inmates often are used by federal and State governments, as well as private firms, to handle inbound calls to call centers or to make outbound telemarketing calls.[308] About 72,000 prisoners nationwide are employed in inmate work programs, including about 2,500 prisoners who work for private subcontractors in 38 States.[309] Supporters maintain that the programs provide a variety of benefits: to inmates, by providing job training; to the prison system, because a portion of the wages goes to offset the costs of incarceration; to taxpayers, because inexpensive labor is used to handle certain government jobs (*e.g.,* handling tourist bureau calls); and to private companies, because they gain a supply of inexpensive labor.[310]

There have been a number of publicized incidents in recent years in which inmates have abused the data and resources to which they had access through these programs to make improper, invasive, and illegal contact with members of the public.[311] These events have raised public concern about the type of personal information available to inmates who do data entry and telemarketing.[312] The commenters point out that while working as telemarketers, inmates inevitably gain access to personal information about individuals, including minors, that may endanger the lives and safety of those they call.[313]

In her written comment and in her testimony at the July Forum on the TSR, April Jordan described how an inmate working as a telemarketer selling family

[305] 15 U.S.C. 6102(a)(3)(A).

[306] *See generally* Jordan, S. Gardner, Budro, and Warren.

[307] *See* Rule Tr. at 220–245, 367–375, 443–447.

[308] For example, TWA uses prisoners to make airline reservations. *See* Julie Light, ''Look for that Prison Label: Inmate work programs raise human rights concerns,'' 64 *The Progressive* 21 (June 1, 2000). In Wisconsin, inmates have been used to solicit pledges for the Leukemia Society, to answer State lottery calls, and to give advice on avoiding highway construction zones. *See* Sam Martino, ''Using inmates to staff phones rekindles debate,'' *Milwaukee Journal Sentinel*, (Apr. 12, 1998), p. 5. Although these examples involve activities that fall outside the coverage of the FTC Act, other prison-based telemarketing can involve products and services that are within the Commission's jurisdiction. *See, e.g.*, Jordan (use of prisoners to telemarket family films).

[309] *See* Light, ''Look for that Prison Label'' at 21. Since the Prison Industry Enhancement Act was passed in 1979 (P.L. 96–157, § 827, 93 Stat 1215), State prison systems may contract with private firms to provide prison labor as long as the prison systems are authorized to do so by State law and the program is certified by the U.S. Department of Justice's Bureau of Justice Assistance.

[310] *See* Brian Hauck, ''RECENT LEGISLATION: Prison Labor,'' 37 *Harvard Journal on Legislation*, 279 (Win. 2000). *See also*, Gordon Lafer, ''America's Prisoners as Corporate Workforce,'' *The American Prospect* (Sept.-Oct. 1999), p. 66.

[311] For example, in its 1997 report to Congress on the privacy implications of individual reference services, the FTC cited an example where a prison inmate (and convicted rapist), who was employed as a data processor, used his access to a database containing personal information to compose and send a threatening letter to an Ohio grandmother. *See* FTC, *Individual Reference Services: A Report to Congress* (Dec. 1997), at p. 16.

[312] Several States, including Wisconsin, Nevada, and Massachusetts, have considered legislation that would require their Departments of Correction to restrict prisoners' access to personal information about persons who are not prisoners and/or to require prisoners conducting telephone solicitations or answering inbound calls to identify themselves as prisoners. The Utah State Prison stopped using inmates as telemarketers after conceding that they could not ensure that prisoners would not misuse personal information they obtain. *See* ''Prison to End Telemarketing By Inmates,'' *Salt Lake Tribune* (June 1, 2000) p. B1. In addition, DMA noted that it had supported legislation banning the use of inmates in remote sales situations because these sales require the telemarketer to get personal information from the consumer. *See* Rule Tr. at 371–372.

[313] *See generally* Jordan, Gardner, Warren, and Budro.

films engaged in an improper conversation with her minor daughter and was able to manipulate the youngster into revealing a great deal of personal information, including her address and physical description.[314] In addition, Attachment VI of Ms. Jordan's comment includes newspaper and television reports describing other instances where inmates misused personal information they had received while doing data entry or working as telemarketers.

The Commission is extremely concerned about the misuse of the access to consumers that prisoners have when they work as telemarketers, and in the potential misuse of personal information and abusive telemarketing activity that has occurred in connection with prison-based telemarketing. Nevertheless, the Commission believes that some public benefit may be provided by inmate work programs that entail telemarketing. The record complied to date contains insufficient information upon which to base a proposal regarding prisoner-telemarketing or to assess the costs and benefits of such a proposal.

Possible regulatory approaches under consideration to address prison-based telemarketing abuses. The Commission could propose disclosure requirements or screening and monitoring requirements to govern prisoner-based telemarketing. It is not clear, however, that such requirements are workable, or if workable, whether they would adequately protect consumers from misuse of personal information in this context. The Commission notes that even the most stringent screening and monitoring procedures instituted by those using inmate work programs have not prevented prisoners from misusing the personal information to which they have access. Telemarketing, by its very nature, is an interactive medium in which the prisoner will be talking directly with a potential customer. Even if prisoners are given scripts to use during the solicitation, nothing short of 100% monitoring can ensure that they adhere to the script and do not digress into ''personal'' conversations with consumers.[315] Moreover, even a list containing only the names and telephone numbers of consumers can provide valuable personal information about consumers that can be abused. Sellers and telemarketers frequently use lists that target particular types of consumers for their solicitations. Thus, a telemarketer may be able to deduce important personal information about a particular consumer simply by virtue of the fact that the consumer's name and telephone number appear on a list for a particular sales campaign. For example, a campaign to sell children's videos presumably would target households with young children. The Commission is not now convinced that any approach short of banning prison-based telemarketing as an abusive practice would ensure sufficient protection for consumers against misuse of their personal information, or other abuses associated with this form of telemarketing.

Therefore, the Commission is considering whether prison-based telemarketing ought to be banned as an abusive practice. Clearly the consumer privacy concerns that in no small measure prompted Congress to enact the Telemarketing Act are implicated by this activity. Although it seems clear that prison-based telemarketing may cause significant unavoidable consumer injury, similar risks may occur from telemarketing employees who are not in prison (*e.g.*, former convicts). Prison-based telemarketing is presumably employed because it is less costly than alternatives, which constitutes a countervailing benefit to consumers or to competition that might outweigh the harm. Moreover, a ban on prisoner telemarketing would only affect sellers and telemarketers that are subject to the Rule. Individuals and entities outside the scope of the FTC Act would not be affected in their telemarketing activities. Therefore, in this notice, the Commission seeks more information from commenters, particularly on the costs to consumers and the measurable benefits to consumers or to competition of prison-based telemarketing, to enable it to determine the most appropriate Commission action with regard to this activity.

Courier pickups. AARP recommended that the Commission ban the use of couriers to pick up payments unless the consumer has an opportunity to inspect any goods before payment is collected.[316] AARP noted that, in the initial TSR rulemaking in 1995, both the Commission and State law enforcement agencies recognized that courier pickups were disproportionately associated with fraudulent telemarketing.[317] AARP pointed out that courier pickups are commonly used in fraudulent prize and sweepstakes promotions because the courier collects the payment before the consumer has had a chance to change his or her mind, and because the contest seems more ''official'' if a ''bonded courier'' comes to pick up the payment.[318] AARP also stated that fraudulent businesses that target low-income consumers also often use courier pickups.[319]

In its 1995 rulemaking to promulgate the TSR, the Commission initially proposed prohibiting any seller or telemarketer from providing for or directing a courier to pick up payment from a customer.[320] However, the Commission deleted that ban from the subsequent revised proposed Rule and, ultimately, from its final Rule after determining that such a ban was unworkable.[321] In this regard, the Commission stated:

> There is nothing inherently deceptive about the use of couriers by legitimate business, and * * * legitimate businesses use them. While fraudulent telemarketers often use couriers to obtain quickly the spoils of their deceit, such telemarketers engage in other acts or practices that clearly are deceptive or abusive, and that are prohibited by this Rule. Thus, the prohibition of courier use is unnecessary * * *[322]

Based on the comments it had received, Commission staff raised the issue of banning courier pickups at the July Forum.[323] However, the discussion did not provide any evidence indicating that the conclusion the Commission drew in 1995 is now invalid. Absent record evidence to the contrary, the Commission declines to modify the TSR to prohibit the use of courier pickups for payments.

Sale of victim lists. NAAG recommended that the Commission ban

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[314] *See generally* Jordan and Rule Tr. at 220–245, 443–447.

[315] In the case involving the Utah prisoner who engaged in inappropriate conversations with minors, there were numerous safeguards to protect against abuse. First, once the main computer system dialed a number and someone answered, the call would be transferred to an inmate telemarketer. The only information the inmate saw was the name the phone number was listed under and the name of the person who gave the referral. If the consumer expresed interest in the product, the call was switched to a civilian representative who worked outside the prison; that representative gathered additional information in connection with the transaction. Second, two separate systems had been set up to randomly monitor the prisoners' conversations with consumers, including built-in ''alerts'' that notified the security personnel if a call lasted over 15 minutes. Abuses occurred despite all of these precautions. *See* Jordan, Attachment III.

[316] *See* AARP at 5; Rule Tr. at 382–383.

[317] AARP at 5 (*citing* ''Comments of the Federal Trade Commission, Public Hearing on Telemarketing Sales Rule, Chicago, Illinois, April 1995'' and ''Comments and Recommendations of the Telemarketing Fraud Task Force of the Consumer Protection Committee of the National Association of Attorneys General in the Matter of the Proposed Telemarketing Sales Rule. FTC File No. R411001 (1995), pp. 18–19'').

[318] AARP at 5; Rule Tr. at 382–383.

[319] *Id.*

[320] Initially proposed Rule § 310.4(a)(2). 60 FR at 8330.

[321] 60 FR at 30415.

[322] *Id.*

[323] *See* Rule Tr. at 382–383.

as an abusive act or practice the sale of ''sucker'' lists (lists of known victims of telemarketing scams); its recommendation was echoed by several participants at the July Forum.[324]

In its 1995 rulemaking to promulgate the TSR, the Commission initially proposed prohibiting any person from selling, renting, publishing, or distributing any list of customer contacts when that person is subject to a federal court order for violations of certain provisions of the TSR.[325] However, the Commission deleted that ban from the subsequent revised proposed Rule and, ultimately, from its final Rule after determining that such a ban was best left to the discretion of law enforcement agencies to seek in individual law enforcement actions before the courts.[326]

Based on the comments it had received, Commission staff raised the issue of banning the sale of victim lists at the July Forum.[327] During the discussion at the forum, participants raised many of the same arguments for and against the prohibition that were raised during the initial rulemaking. Although participants agreed that the sale of ''sucker'' lists was a pernicious practice that should be stopped, they also agreed that it was extremely difficult to define ''victim.'' Participants also noted the danger of overbreadth in such a provision, and infringement on a consumer's sovereignty in the matter of which telemarketing calls he or she might wish to receive, simply because the consumer had once been defrauded.[328] The discussion did not provide any evidence that the conclusion the Commission drew in 1995 was incorrect. Moreover, the Commission believes it is highly likely that any telemarketer attempting to defraud those who have previously been victimized by telemarketing fraud will violate one or more existing provisions of the Rule, and thus be subject to liability without a provision addressing sucker lists. Therefore, the Commission declines to amend the TSR to prohibit the sale of lists of known telemarketing victims.

Targeting vulnerable groups. NAAG recommended that the Commission amend the TSR to prohibit the targeting of vulnerable groups (such as the elderly) in telemarketing schemes that contain any misrepresentation of material fact.[329] This issue was raised at the July Forum.[330] The results of that discussion have led the Commission to conclude that prohibiting this practice would raise issues similar to those encountered in attempting to prohibit the sale of victim lists, as discussed above. There is nothing inherently harmful about directing sales efforts to a particular segment of the population—even ''vulnerable'' ones—*provided* the efforts do not entail unfair or deceptive practices. It is these practices, not ''targeting'' per se, that gives rise to injury. Moreover, these practices independently violate the Rule. Adding targeting as a Rule violation would, at best, provide ''makeweight'' allegations that serve little purpose. Such a violation, standing alone, would not likely provide a basis for law enforcement action. Moreover, it would be very difficult to define what constitutes a ''vulnerable'' group without infringing on consumers'' prerogatives to receive offers and information that may be valuable to them, or without unduly hindering legitimate telemarketers from focusing their marketing campaigns.[331] As with the sale of victim lists, the Commission believes that combating the practice of targeting vulnerable groups is a challenge best left to the discretion of law enforcement agencies who may seek injunctions and other penalties on a case by case basis in individual law enforcement actions.

Definition of ''promptly.'' Section 310.4(d) requires that a telemarketer in an outbound call promptly disclose certain information to the person being called.[332] Several commenters urged the Commission to define the term ''promptly.''[333] These commenters suggested that, by failing to define the term, the Rule gives too much latitude to the telemarketer as to when such disclosures should be made.[334] Other commenters supported the current wording, believing the standard strikes the appropriate balance.[335]

The wording of this provision adopts the statutory language found in the Telemarketing Act.[336] Furthermore, the Commission believes that its discussion of this term in the Statement of Basis and Purpose of the Rule is absolutely clear that, while industry is allowed some flexibility, the disclosures must occur *at once or without delay, and before any substantive information* about a prize, product, or service is conveyed to the consumer.[337] Although commenters suggested other terms that might be used instead of the word ''promptly,''[338] the Commission does not believe that those suggestions provide any greater precision than does the current wording. Therefore, the Commission has determined to retain the current wording of this provision.

Multiple purpose calls. Several commenters noted that there has been a problem with dual purpose calls—*i.e.*, calls that combine selling with some other activity, such as conducting a prize promotion or survey, or assessing whether a customer is satisfied with a recent purchase.[339] These commenters state that the problem has been particularly acute in the outbound sale of magazines, where a prize or sweepstakes offer is used to solicit the purchase of a magazine subscription.[340] NAAG states that some telemarketers fail to make the required disclosures up front and, when challenged, contend that the primary purpose of the call is to solicit a sweepstakes entry, not to sell a magazine subscription.[341] For this reason, NAAG and NACAA recommend that, instead of relying upon language in the Statement of Basis and Purpose (discussed below), the TSR should contain a provision that expressly deals with multiple purpose calls and that the provision should require telemarketers to make the required oral disclosures, including the cost disclosures required by § 310.3(a)(1)(i), before soliciting the consumer to enter a sweepstakes or prize promotion or before mentioning any other purpose of the call.[342]

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[324] *See* NAAG at 19. *See also* Rule Tr. at 354–363.

[325] Initially proposed Rule § 310.4(f); 60 FR at 8332.

[326] 60 FR at 30420.

[327] *See* Rule Tr. at 354–367.

[328] *See* Rule Tr. at 355–356, 360–361, 366–367.

[329] NAAG at 20.

[330] *See* Rule Tr. at 380–382.

[331] *See* Rule Tr. at 380–382.

[332] The Rule requires the telemarketer to disclose promptly the identity of the seller, that the purpose of the call is to sell goods or services, the nature of the goods or services, and that no purchase or payment is necessary to win a prize or participate in a prize promotion. 16 CFR 310.4(d).

[333] *See* LSAP at 2; NAAG at 14; NACAA at 2; Texas at 2.

[334] NAAG at 14.

[335] *See* ARDA at 2; Gannett at 1 (noting that many State laws contain different timing requirements for making the required disclosures to the detriment of the effectiveness of telemarketing); MPA at 9–10; NASAA at 3.

[336] The Telemarketing Act requires the Commission to include in its Rule ''a requirement that any person engaged in telemarketing for the sale of goods or services shall promptly and clarly disclose to the person receiving the call that the purpose of the call is to sell goods or services and make other such disclosures as the Commission deems appropriate.'' 15 U.S.C. 6102(a)(3)(C).

[337] 60 FR at 43856, generally and at n.150.

[338] *See* LSAP at 2 (define as ''when a consumer answers an outbound telemarketing call''); NACAA at 2 (define as ''immediate and at commencement of the call''); NAAG at 14 (define as ''at the onset of the call''); Texas at 2 (define as ''prior to making the sales presentation'').

[339] NAAG at 6–8; NACAA at 2.

[340] NAAG at 6–7.

[341] *Id.* at 7.

[342] *Id.* at 8; NACAA at 2.

The Commission does not believe that the cost disclosures required by § 310.3(a)(1)(i) should be one of the required oral disclosures that must be given promptly at the beginning of the call. These cost disclosures are more meaningful to the consumer when made in conjunction with the remainder of the disclosures required by § 310.3(a)(1). So long as the disclosures that are required by § 310.4(d) are made promptly, consumers will be put on notice that, at some point during the call, they will be offered the chance to purchase a good or service. In addition, the prompt disclosures serve as an obstacle to those telemarketers who would seek to mischaracterize a sales transaction as something else (*e.g.*, as a survey or as a contest).

The Commission also believes that its position with respect to multiple purpose calls is clear. In the Rule's Statement of Basis and Purpose, the Commission stated:

> [T]he Commission believes that in any multiple purpose call where the seller or telemarketer plans, in at least some of those calls, to sell goods or services, the disclosures required by this section of the Rule must be made ''promptly,'' during the first part of the call, before the non-sales portion of the call takes place. Only in this manner will the Rule assure that a sales call is not being made under the guise of a survey research call, or a call for some other purpose.[343]

The Commission believes that this language leaves no room for doubt that the sale of goods or services does not have to be the *primary* purpose of the call; it only has to be *one* of the purposes in order to trigger the required oral disclosures. Thus, in any call in which one of the purposes is to sell goods or services, the required disclosures must be made ''promptly'' before any discussion of any sweepstakes, survey, or other non-sales purpose. Therefore, because the Commission made its intention so clear in the Statement of Basis and Purpose regarding when disclosures must be made in a multiple purpose call, it is unnecessary to amend the Rule to deal expressly with those types of calls.

Number and address of telemarketer. NASAA recommended that the Rule be modified to track the language of the NASD Rule that requires the telemarketer to disclose the telephone number and address at which the *telemarketer* can be contacted.[344] NASAA contends that this would expand the definition of ''identity of the seller'' and provide the consumer with important information that could be used to identify the telemarketer to the consumer or to regulatory agencies should the consumer have a complaint.[345] The Commission agrees that the identity of the telemarketer is often helpful to law enforcement agencies when investigating fraudulent telemarketing activities. However, from the consumer's perspective, the identity of the seller continues to be the most vital piece of information that consumers must capture when a telemarketer calls, since it is the seller to which the consumer would direct complaints, requests for refund, as well as ''do-not-call'' requests under the Rule. In addition, the Commission believes that the initial oral disclosures should be succinct in order to avoid confusing consumers with an overload of information. Therefore, the Commission declines to adopt NASAA's recommendation.

E. Section 310.5—Recordkeeping

Section 310.5 of the Rule describes the types of records sellers or telemarketers must keep, and the time period for retention.[346] Specifically, this provision requires that telemarketers must keep for a period of 24 months: all substantially different advertising, brochures, scripts, and promotional materials; information about prize recipients; information about customers, including what they purchased, when they made their purchase, and how much they paid for the goods or services they purchased; information about employees; and all verifiable authorizations required by § 310.3(a)(3).

Commenters generally favored the recordkeeping provisions, noting that they have not been unduly burdensome[347] and that they have provided necessary guidance to industry members about what records must be kept and for how long.[348] In particular, MPA noted with approval the requirement in § 310.5(a)(1) that only substantially different advertising materials need be retained under the Rule, which equitably balances the needs of businesses with those of consumers.[349]

Reese was the only commenter who found the cost of recordkeeping burdensome,[350] suggesting that the Commission could alleviate this burden either by allowing that such records be kept for a shorter time, such as 90 days from the time of sale, delivery, or presentment of charges in writing, or that the length of time for record retention vary depending on the value of the purchase made by telephone, with longer record storage requirements for more expensive sales.[351] Bell Atlantic suggested that the record retention period be reduced to only 12 months for companies that offer money back guarantees, which would reduce the burden on such companies and create an incentive in the marketplace to offer such guarantees.[352]

The Commission declines to reduce the record retention period for telemarketing transactions. As the Commission noted in its discussion of the recordkeeping provision in the Rule's Statement of Basis and Purpose, the 24-month record retention period ''is necessary to provide adequate time for the Commission and State law enforcement agencies to complete investigations of noncompliance.''[353] The Commission further noted that the burden on business in keeping records for 24 months was carefully balanced by designating that those records to be kept were those already routinely maintained by businesses in the ordinary course of business. Nothing in the Rule review record suggests that a shorter time period for retention would meet the needs of law enforcement, and the Commission finds no compelling evidence in the Rule review record that such a change is necessary to alleviate any undue burden on industry.

The Commission also rejects the proposal to tie the duration of record retention to either the value of the goods or services sold or to the refund policy of the seller. As to the former, the Commission has numerous examples in its law enforcement experience of telemarketing frauds where large numbers of consumers have been bilked out of small amounts of money.[354] While the injury per consumer may have been small in such cases, the cumulative injury was substantial. Consequently, the Commission believes that eliminating the 24-month retention requirement for transactions below a

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[343] 60 FR at 43856.

[344] NASAA at 3.

[345] *Id.*

[346] The Telemarketing Act expressly authorizes the Commission to require recordkeeping in the TSR. 15 U.S.C. 6102(a).

[347] *See* ARDA at 4 (noting that, independent of State law requirements for recordkeeping, particularly for ''do-not-call'' requests, the TSR has not been burdensome on ARDA members).

[348] MPA at 10.

[349] *Id.*

[350] Reese at 8 (stating that ''[i]ndustry practice is to store audiotapes of sales for 2–3 years to satisfy FTC record keeping and for future retrieval in the event of disputes' and that the cost of this adds 2% to operating costs).

[351] *Id.*

[352] Bell Atlantic at 7.

[353] 60 FR at 43857.

[354] *See, e.g., FTC* v. *Progressive Media, Inc.,* No. C96–1723WD (W.D. Wash. July 23, 1997) (employment opportunities, scholarships/ financial aid for $39.95 to $69.95); *FTC* v. *Ed Boehlke,* No. CIV96–0482–E–BLW (D. Idaho, filed Nov. 4, 1996) (work-at-home kits for $38.95).

certain dollar threshold would be detrimental to consumers. Similarly, the Commission rejects the proposal to shorten the record retention period for companies offering money back guarantees. Although a money back guarantee can be beneficial for consumers, the guarantee is only as good as the company that offers it. The Commission's law enforcement experience is replete with examples of companies engaging in fraud or deception, including misrepresentations regarding their money back guarantees.[355] Law enforcement would still require a 24-month period of records in order to complete investigations of noncompliance.

Finally, pursuant to section 1011 of the USA PATRIOT Act, the recordkeeping provisions of the Rule will now be applicable to telemarketers who solicit charitable contributions, as well as to those who attempt to induce the purchase of goods and services. Therefore, telemarketers now will be required to adhere to § 310.5, regardless of whether they are attempting to induce the purchase of goods or services or a charitable contribution.[356] The only explicit modification proposed to § 310.5 is made to extend the provision's coverage to include charitable solicitations in a non-sales context. Specifically, in § 310.5 (a)(4), the phrase ''employees directly involved in telephone sales'' is now directly followed by the phrase ''or solicitations of charitable contributions.''

F. Section 310.6—Exemptions

Section 310.6 exempts certain telemarketing activities from the Rule's coverage.[357] The exemptions to the Rule were designed to ensure that legitimate businesses are not unduly burdened by the Rule, and each is justified by one of four factors: (1) Whether Congress intended a particular activity to be exempt from the Rule; (2) whether the conduct or business in question is already the subject of extensive federal or State regulation; (3) whether the conduct at issue lends itself easily to the forms of abuse or deception the Telemarketing Act was intended to address; and (4) whether the risk that fraudulent sellers or telemarketers would avail themselves of the exemption outweigh the burden to legitimate industry of compliance with the Rule.[358]

The exemptions to the Rule generated a significant number of written comments, and were also the subject of extensive discussion at the July Forum. Law enforcement and consumer groups generally favored limiting the exemptions,[359] while the business community generally favored retaining the current exemptions.[360]

No comments were received recommending changes to § 310.6(d), which exempts ''calls initiated by a consumer that are not the result of any solicitation by a seller or telemarketer.'' The proposed Rule retains this provision unchanged, except for expanding the exemption to charitable solicitations that are not the result of any solicitation. Based on the record in this proceeding, and on its law enforcement experience, the Commission proposes several modifications to other subsections of § 310.6.

First, the Commission proposes modification to §§ 310.6(a), 310.6(b) and 310.6(c) in order to require telemarketers and sellers of pay-per-call services, franchises, and those whose sales involve a face-to-face meeting before consummation of the transaction to comply with the ''do-not-call'' and certain other provisions of § 310.4.

Second, the Commission proposes to modify the general media exemption to make it unavailable to telemarketers of credit card loss protection plans and business opportunities other than business arrangements covered by the Franchise Rule.

Third, the Commission proposes modifying the exceptions to the direct mail exemption, § 310.6(f). As in the case of the general media exemption, the direct mail exemption is unavailable to telemarketers of certain goods or services that are particularly susceptible to fraud. The Commission proposes to add to this list of problematic goods or services. Specifically, the direct mail exemption will no longer be available to telemarketers of credit card loss protection plans or business opportunities other than business arrangements covered by the Franchise Rule. In addition, the proposed Rule would make clear that email and facsimile messages are direct mail for purposes of the Rule.

Fourth, pursuant to the USA PATRIOT Act amendment of the Telemarketing Act, the Commission also proposes to expand certain of the exemptions to include charitable solicitations. Thus, the proposed Rule would exempt: charitable solicitation calls that are followed by face-to-face payment, § 310.6(c); prospective donors' inbound calls not prompted by a solicitation, § 310.6(d); charitable solicitation calls placed in response to general media advertising, § 310.6(e); and charitable solicitation calls placed in response to direct mail solicitations that comply with § 310.3(a)(1). In addition, the Commission proposes to make the business-to-business exemption unavailable for charitable solicitation calls (along with calls for the sale of Internet services, Web services, or the retail sale of nondurable office of cleaning supplies), § 310.6(g). The Commission's law enforcement experience demonstrates that fraudulent charitable solicitations directed at businesses are a widespread problem. Consequently, telemarketers that solicit charitable contributions from businesses should not be exempt from complying with the TSR.

Sections 310.6(a), (b) and (c)—Exemptions for Pay-Per-Call Services, Franchising, and Face-to-Face Transactions

Section 310.6(a) of the original Rule exempts from the Rule's requirements those transactions that are subject to the Commission's Pay-Per-Call Rule.[361] Similarly, § 310.6(b) exempts transactions subject to the Commission's Franchise Rule.[362] Section 310.6(c) exempts from the Rule's requirements

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[355] *See, e.g., FTC* v. *Telebrands Corp. et al.,* FTC Docket No. C–3699; and modified Order, 96–0827–R (Turk), (W.D. Va. Sept. 1, 1999) (products via mail and telephone order); *In the Matter of Gateway 2000, Inc.,* FTC Docket No. C–3844 (1998) (mail order computers); *FTC* v. *Progressive Media, Inc., et al.,* C96–1723WD (W.D. Wash. July 23, 1997) (employment opportunities, scholarships/financial aid); *FTC* v. *Ed Boehlke,* No. CIV96–0482–E–BLW; *FTC* v. *Universal Credit Corp.,* 96–114–LHM(EEx) (C.D. Calif. Feb. 9, 1996) (credit repair); *FTC* v. *Environmental Protection Servs.,* No. 89–1498 (S.D. Fla. 1989).

[356] When provisions within this section specifically contemplate recordkeeping by ''sellers'' or only require recordkeeping about ''customers,'' telemarketers soliciting charitable contributions will be exempt from compliance.

[357] Specifically, the Rule exempts: (1) Goods and services subject to the Commission's 900–Number Rule and Franchise Rule; (2) telemarketing sales consummated by face-to-face transactions; (3) inbound telephone calls that are not the result of any solicitation by the seller or telemarketer; (4) telephone calls in response to a general media advertisement (except those related to investment opportunities, credit repair, ''recovery'' or advance fee loan services); (5) inbound telephone calls in response to direct mail solicitations that truthfully disclose all material information (except solicitations relating to prize promotions, investment opportunities, credit repair, ''recovery'' or advance fee loan services); and (6) business-to-business telemarketing (except calls involving the retail sale of non-durable office or cleaning supplies).

[358] 60 FR at 43859.

[359] *See* FAMSA at 2; NAAG at 16–17; NACAA at 2; NCL at 5.

[360] *See* ARDA at 5; DSA at 4; ERA at 4; ICFA at 1–2; MPA at 10; Reese at 12.

[361] Trade Regulation Rule pursuant to the Telephone Disclosure and Dispute Resolution Act of 1992, 16 CFR part 308.

[362] Rule Regarding Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures, 16 CFR part 436.

those transactions in which the sale of goods or services is not completed, and payment or authorization of payment is not required, until after a face-to-face sales presentation by the seller.[363] The Commission proposes to retain the exemptions for pay-per-call services, franchising, and face-to-face transactions set out in §§ 310.6(a)–(c),[364] but to require these telemarketers to comply with § 310.4(a)(1) (prohibiting threats, intimidation or use of profane or obscene language), § 310.4(a)(6) (blocking, circumventing, or altering the transmission of the name and/or telephone number of the calling party on Caller ID), § 310.4(b) (prohibiting abusive pattern of calls, and requiring compliance with ''do-not-call'' provisions), and § 310.4(c) (calling time restrictions).

No comments were received regarding §§ 310.6(a) or (b). Commenters generally favored § 310.6(c), noting that it appropriately excludes from the Rule's coverage transactions in which the incidence of telemarketing fraud and abuse is lessened by a subsequent in-person meeting between a customer and a seller.[365] The Commission continues to believe that the incidence of fraud may be lessened when a transaction is not completed, and payment is not made, until a face-to-face meeting occurs between the buyer and seller. Thus, the proposed Rule would continue to exempt face-to-face transactions from the provisions relating to deceptive practices. For the same reasons, the Commission proposes to expand the ''face-to-face'' exemption to those charitable solicitations where the donation or payment is made subsequently in a face-to-face setting. Similarly, the Commission continues to believe that the Pay-Per-Call Rule and the Franchise Rule provide protection against deceptive practices for consumers seeking to purchase those goods or services. Thus, the proposed Rule would continue to exempt transactions subject to the Commission's Pay-Per-Call Rule and Franchise Rule from the provisions relating to deceptive practices.

On the other hand, the Rule review record makes clear that consumers are increasingly frustrated with unwanted telemarketing calls, including those soliciting for pay-per-call services or sales appointments.[366] One consumer who spoke during the public participation portion of the ''Do-Not-Call'' Forum noted frustration about her inability to invoke her right not to be called again by a company that called her to solicit a sales appointment.[367] A number of participants in the July Forum concurred that the ''do-not-call'' provision of the Rule should also be applicable to calls where a seller attempts to set up an in-person sales meeting at a later date.[368]

The Telemarketing Act mandates that the Commission's Rule address abusive telemarketing practices and specifically mandates that the Commission's Rule include a prohibition on calls that a reasonable consumer would consider coercive or abusive to the consumer's right to privacy, as well as restrictions on calling times.[369] The incidence of fraud may be diminished in face-to-face telemarketing transactions or when the transactions are subject to regulation by other Commission rules, but the Rulemaking record shows that these transactions are not less susceptible to the abusive practices prohibited in § 310.4.[370] For this reason, the Commission agrees that telemarketing calls to solicit a face-to-face presentation or to solicit the purchase of pay-per-call services should be subject to certain of the Rule's provisions designed to limit abusive practices. Because franchise sales generally involve a face-to-face meeting at some point, these transactions are simply another type of face-to-face transaction and thus the telemarketing of franchises should be held to the same standard.

Therefore, the Commission proposes to retain the exemptions for pay-per-call services, franchising, and face-to-face transactions set out in §§ 310.6(a)–(c), but to require that telemarketers making these types of calls comply with §§ 310.4(a)(1) and (6), and §§ 310.4(b) and (c). The proposed Rule would continue to exempt these calls from the requirements of § 310.3 relating to deceptive practices and from the recordkeeping requirements set out in § 310.5.[371] These calls would also continue to be exempt from providing the oral disclosures required by § 310.4(d). Similarly, telemarketers soliciting charitable donations would be exempt from § 310.4(e) when the payment or donation is made subsequently in a face-to-face setting. However, the proposed Rule would require that, even when a call falls within these exemptions, a telemarketer may not engage in the following practices:

- Threatening or intimidating a customer, or using obscene language;
- Blocking Caller ID information;
- Causing any telephone to ring or engaging a person in conversation with intent to annoy, abuse, or harass the person called;
- Denying or interfering with a persons's right to be placed on a ''do-not-call'' registry;
- Calling persons who have placed themselves on the central ''no-call'' registry list maintained by the Commission or calling persons who have placed their names on that seller's ''do-not-call'' list; and
- Calling outside the time periods allowed by the Rule.

Section 310.6(d)—Exemption for Calls a Customer or Donor That Do Not Result From a Solicitation

As part of the implementation of the USA PATRIOT Act amendments, the Commission proposes to expand this exemption to prevent the Rule from covering calls initiated by a donor that do not result from any solicitation by a charitable organization or telemarketer. In exempting commercial calls that are not the result of any solicitation by a seller, the Commission stated in the Statement of Basis and Purpose for the original TSR, ''Such calls are not deemed to be part of a telemarketing ''plan, program, or campaign * * * to induce the purchase of goods or services.''''[372] Similarly, calls placed without the prompting of a solicitation by a charitable organization or telemarketer are not deemed to be part of a ''plan, program, or campaign which is conducted to induce * * * a charitable contribution, donation, or gift of money or any other thing of value * * *'', by use of one or more telephones and which involves more than one interstate telephone call.

[363] Face-to-face transactions are also covered by the Commission's Rule Concerning Cooling-Off Period for Sales Made at Homes or at Certain Other Locations, 16 CFR part 429.

[364] No modifications to §§ 310.6(a) & (b) are necessary to implement the USA PATRIOT Act amendments, because charitable solicitations are not likely to be combined with pay-per-call or franchise sales. Therefore, there is no need to expressly exempt such an unlikely scenario from TSR coverage. However, modification of § 310.6(c) is proposed in order to exempt charitable solicitations that entail a face-to-face meeting before the donor pays.

[365] *See* ARDA at 5; DSA at 3; ICFA at 2.

[366] *See generally* the text, above, discussing § 310.4(b).

[367] *See* Mey generally; DNC Tr. at 241–246.

[368] *See* Rule Tr. at 291–296.

[369] 15 U.S.C. 6102(a)(1) and (3)(A) and (B).

[370] *See* Gindin at 1; Mey generally; DNC Tr. at 241–246; Rule Tr. at 291–295.

[371] Of course, a seller or telemarketer would have to keep documentation in order to successfully raise the ''safe harbor'' defense in § 310.4(b)(2) regarding compliance with the proposed Rule's ''do-not-call'' requirements.

[372] 60 F.R. 43860 (Aug. 23, 1995).

Section 310.6(e)—General Media Advertising Exemption

Section 310.6(e) of the Rule exempts calls initiated by a customer in response to general media advertisements, except for telemarketing calls offering credit repair services, ''recovery'' services, or advance fee loans. The proposed Rule adds credit card loss protection plans and business opportunities other than business arrangements covered by the Franchise Rule to the list of exceptions to the exemption for general media advertisements. In addition, pursuant to the USA PATRIOT Act amendments, the proposed Rule expands the exemption to exclude from the Rule's coverage calls initiated by a donor in response to general media advertisements.

ERA and Reese recommended retaining the general media advertising exemption.[374] ERA stated that inbound calls in response to most general media advertisements are appropriately excluded from the Rule's coverage because they are not traditionally subject to the abuses the Act addresses, and because fraudulent general media advertisements can be addressed under Section 5 of the FTC Act.[375] These commenters argued that the current exemption is justified because it is less common to find fraudulent offers of products or services promoted via general media advertisements. In addition, they argued that consumers are less susceptible to believing dubious prize promotions when they are presented through general media than when presented as an offer for which they have been ''specially selected.'' [376]

Other commenters disagreed with ERA and Reese, recommending that the general media advertising exemption be removed from the Rule entirely. These commenters argued that the general media exemption is inconsistent with the intent of the Telemarketing Act to cover all telemarketing calls except those in response to a catalog solicitation.[377] Commenters also noted that there can be little justification for exempting telemarketers from the Rule's coverage simply because they avail themselves of advertising via television, newspaper, or the Internet, while regulating telemarketers who use direct mail solicitations, which is another form of general media advertising.[378]

These commenters further argued that the current general media advertising exemption provides insufficient protection for consumers,[379] pointing out that consumer complaints about fraudulent telemarketing schemes are often the result of advertisements placed in general media sources.[380] NCL noted that the exemption for such advertisements is especially troubling because the solicitations rarely, if ever, provide enough information for a consumer to make an informed purchasing decision, leaving the consumer to base his or her decision on unregulated representations made in the subsequent inbound telephone call.[381] NCL recommended creating an exception to the general media advertising exemption that would subject calls in response to such advertisements to the Rule's requirements unless the initial advertisements contained full information about the offer.[382]

When the original Rule was promulgated, the Commission decided to include narrowly-tailored exemptions in order to avoid unduly burdening legitimate businesses and sales transactions that Congress specifically intended not to be covered under the Rule.[383] A review of the legislative history of the Telemarketing Act indicates that the implicit concern behind the Act was with deceptive solicitations that directly target an individual consumer or address (*e.g.,* outbound telephone calls or direct mail solicitations that induce the consumer to call a telemarketer), not with calls prompted by deceptive advertisements in general media such as infomercials, television commercials, home shopping programs, or telephone Yellow Pages that are broadcast to the general public.[384] Thus, the Commission believes that the general media exemption is consistent with the Congressional intent and that the exemption should not be removed from the Rule.

Similar reasoning leads the Commission to propose extending this exemption to calls placed by donors in response to general media advertising. Nothing in the Commission's enforcement experience, or in the text of section 1011 of the USA PATRIOT Act or its legislative history indicates that these kinds of calls have raised concerns that would warrant coverage by the TSR.

Although general media was exempted from the Rule's requirements in the original rulemaking, the Commission noted that deceptive telemarketers of certain types of products or services did use mass media or general advertising to entice their victims to call. Those products and services included investment opportunities, credit repair offers, advance fee loan offers, and ''recovery'' services. Therefore, the Commission made this exemption unavailable to sellers and telemarketers of those specified products and services.

In criticizing the general media exemption, NCL cited work-at-home schemes as an example of a scheme commonly promoted using advertisements in newspapers or magazines, noting that the number one complaint reported to the NFIC in 1999 was such scams.[385] The Commission agrees with NCL that an increasing number of telemarketing fraud solicitations for work-at-home schemes and other job opportunities appear in general media advertising. Complaint data show that the single greatest per capita monetary loss category in complaints reported to the FTC is for business opportunities, including work-at-home schemes, and that many of these are advertised through general media.[386] The Commission has devoted much of its resources to law enforcement involving business opportunity schemes in general, and work-at-home schemes in particular, over the last several years.[387] Of course, the Commission's Franchise Rule addresses the activities of some business opportunity ventures; however, the Commission's law enforcement experience and the Rule review record confirm that there are ever-emerging permutations of these business arrangements that are not subject to the Franchise Rule, but that have proven to be popular avenues of fraud in the marketplace, and therefore merit treatment here.

In recognition of the fact that telemarketing fraud perpetrated by the

[373] USA PATRIOT Act, Pub. L. 107–56 (Oct. 25, 2001) § 1011(d).

[374] *See* ERA at 5; Reese at 12.

[375] ERA at 5.

[376] *See* ERA at 5; Rule Tr. at 276–281, 287–291.

[377] *See* NAAG at 16; NCL at 15.

[378] NAAG at 16. Most solicitations in response to direct mail are exempt from the Rule's coverage provided that the mailing clearly, conspicuously, and truthfully discloses all material information required by § 310.3(a)(1). 16 CFR 310.6(f).

[379] NAAG at 16; NCL at 15.

[380] NCL at 15.

[381] *Id.*

[382] NCL at 15. This approach is similar to that adopted in the Rule for direct mail solicitations. *See* 16 CFR 310.6(f).

[383] 60 FR at 43859.

[384] *See, e.g.,* H. Rep. 102–421, 102d Cong., 1st Sess. (1991) (describing the way in which telemarketing schemes work and detailing a wide variety of boiler room and direct mail schemes targeted at specific individuals).

[385] *See* NCL at 15. According to NCL, complaint data show that 24 percent of work-at-home offers were initiated through print advertising, a figure more than double that for offers of other kinds, which originate in print advertising in only 11 percent of the cases.

[386] Rule Tr. at 282.

advertising of work-at-home and other business opportunity schemes in general media sources is a prevalent and growing phenomenon, the Commission proposes to make the general media advertising exemption unavailable to sellers and telemarketers of business opportunities other than business arrangements covered by the Franchise Rule or any subsequent Rule covering business opportunities the Commission may promulgate. The proposed Rule also makes this exemption unavailable for sellers and telemarketers of credit card loss protection plans.[388] Otherwise, the Commission believes that the proposed Rule's focus on credit card loss protection plans, including new affirmative disclosures and prohibited misrepresentations, may create some incentive for unscrupulous sellers to market these programs via general media advertising specifically to ensure that their efforts are exempt from the Rule's coverage. Therefore, sellers and telemarketers who market these goods and services would be required to abide by the Rule regardless of the medium used to advertise their products and services.

Section 310.6(f)—Direct Mail Exemption

Section 310.6(f) exempts from the Rule's requirements inbound telephone calls resulting from a direct mail solicitation that clearly, conspicuously, and truthfully discloses all material information required by § 310.3(a)(1). The proposed Rule adds language clarifying that the Commission considers advertisements sent via facsimile machine or electronic mail to be forms of direct mail.

In addition, the proposed Rule extends this exemption to inbound telephone calls resulting from direct mail charitable fundraising solicitations that comply with § 310.3(a)(1), and which would otherwise be subject to the Rule pursuant to the modifications mandated by the USA PATRIOT Act amendments.

Commenters suggested that advertisements sent by facsimile machine or electronic mail should be included as categories of direct mail, and therefore be exempt from the Rule's coverage as long as they make the required disclosures required by § 310.3(a)(1) in a clear, conspicuous, and truthful manner.[389] The Commission believes that facsimile and electronic mail advertisements are analogous to traditional direct mail sent through the United States Postal Service or private mail services, such as United Postal Service or Federal Express. Indeed, the Commission has brought law enforcement actions under the Rule against fraudulent telemarketers who used facsimiles or electronic mail to solicit inbound calls.[390] Therefore, the Commission proposes to modify § 310.6(f) to clarify that direct mail solicitations include ''solicitations via the U.S. Postal Service, facsimiles, electronic mail, and other similar methods'' of delivery which directly target potential customers or donors.

The original Rule removed prize promotions, investment opportunities, credit repair services, ''recovery'' services, and advance fee loan offers from the direct mail exemption. In addition to these, the proposed Rule, for reasons similar to those cited with respect to the modification to the general media exemption, § 310.6(e), also removes from the direct mail exemption both credit card loss protection plans as well as business opportunities other than business arrangements covered by the Franchise Rule or any subsequent Rule covering business opportunities the Commission may promulgate.

Section 310.6(g)—Business-to-Business Exemption

Section 310.6(g) of the original Rule exempts most business-to-business telemarketing from the Rule's requirements; only the sale of nondurable office and cleaning supplies are covered under the Rule. In addition to these, the proposed Rule also makes this exemption unavailable to telemarketers of Internet services or Web services, and telemarketers' solicitations for charitable contributions.

ERA praised the business-to-business exemption, noting that in business-to-business transactions, telemarketers are selling to ''uniquely sophisticated'' purchasers who are skilled in evaluating and negotiating competing offers.[391] ERA also noted that business purchasers would ''find a seller's rote adherence to the requirements of the TSR annoying and disruptive to ordinary business negotiations.''[392]

State and local law enforcement officials were less enthusiastic about this Rule exemption, particularly as it relates to small businesses.[393] Participants at the July Forum also noted that small businesses are increasingly the targets of fraudulent telemarketing schemes.[394] Some critics recommended abolishing the business-to-business exemption, while others recommended removing additional products and services from the exemption.[395]

The Commission believes a business-to-business exemption continues to be appropriate. However, the Commission also is cognizant of the increasing emergence of fraudulent telemarketing scams that target businesses, particularly small businesses, for certain kinds of fraud.[396] The Commission receives a high number of complaints about such business-to-business telemarketing frauds,[397] and has brought numerous law enforcement actions against them, both under the Rule and section 5 of the FTC Act.[398] Currently, the Rule makes the business-to-business exemption unavailable to telemarketers of nondurable office or cleaning supplies. The sale of Internet and Web services to small businesses has emerged as one of the leading sources of complaints about fraud by small businesses.[399] The proliferation of sellers of these services has increased dramatically as Internet use has skyrocketed over the past five years.[400]

[387] *See, e.g., FTC* v. *Advanced Public Communications Corp.,* 00–00515 (S.D. Fla. filed Feb. 7, 2000); *FTC* v. *MegaKing,* No.00–00513 (S.D. Fla. filed Feb. 7, 2000); and *FTC* v. *Home Professions, Inc.,* SACV 00–111 AHS(EEx) (C.D. Cal. filed Feb. 1, 2000).

[388] *See also,* the discussion above regarding

[390] *See, e.g., FTC* v. *Leisure Time Mktg, Inc.,* No. 6:00–Civ–1057–ORL–19–B, (M.D. Fla. filed Aug. 14, 2000).

[391] ERA at 5.

[392] *Id.*

[393] *See, e.g.,* NAAG at 16–17; NACAA at 2; Texas at 2–3.

[394] *See generally* Rule Tr. at 250–272.

[395] *See* NAAG at 17 (recommending that the exemption be eliminated when telemarketing calls are made to small businesses, or, in the alternative, that the exception be broadened to include the sale of Internet and Web services); NACAA at 2 (recommending that calls to small businesses be covered by the Rule); Texas at 2–3.

[396] Rule Tr. at 252–253 (NAAG noting that businesses are ''the consumers of choice for fraudulent telemarketers of the 21st century'').

[397] *See E-Commerce Fraud Targeted at Small Business: Hearings on Web Site Cramming Before the Senate Comm. on Small Bus.* (Oct. 25, 1999) (statement of Jodie Bernstein, Director of the Bureau of Consumer Protection, FTC); *FTC Cracks Down on Small Business Scams: Internet Cramming is Costing Companies Millions,* FTC news release, June 17, 1999, available online at: *www.ftc.gov/opa/1999/small9.htm.*

[398] *See, e.g., FTC* v. *Shared Network Svcs. LLC.,* Case No. S–99–1087–WBS JFM, (E.D. Cal. filed June 12, 2000); *FTC* v. *U.S. Republic Communications, Inc.,* Case No. H–99–3657, S.D. Tex. (Oct. 21, 1999) (Stipulated Final Order for Permanent Injunction and Other Equitable Relief entered on Oct. 25, 1999); *FTC* v. *WebViper LLC d/b/a Yellow Web Services,* Case No. 99–T–589–N, (M.D. Ala. June 9, 1999); FTC v. Wazzu Corp., Case No. SA CV–99–762 AHS (ANx), (C.D. Cal. filed June 7, 1999).

[399] *See* NAAG at 16–17; Rule Tr. 250–253, 266, 269–270.

[400] *See, e.g., www.media-awareness.ca/eng/issues/stats/usenet.htm* (''In 1997, electronic commerce transactions around the world totalled [sic] about $4 billion. By 2002, that figure is expected to jump to $400 billion.'') (''Over 83

Continued

Small businesses have proven eager to join the online revolution, but often are unable to distinguish between offers from legitimate sellers and those extended by fraud artists. Therefore, the proposed Rule also makes the business-to-business exemption unavailable to telemarketers of Internet services and Web services. The Commission believes that this will strengthen the tools available to law enforcement to stop these schemes from proliferating.

Similarly, the Commission's enforcement experience compels the conclusion that charity fraud targeting businesses is a widespread problem, and that small businesses in particular need the TSR's protection from charity fraud.[401] The Commission believes it consistent with the plain language and the legislative history of the USA PATRIOT Act amendments that the TSR should reach this problem.

Other Recommendations by Commenters Regarding Exemptions

Preneed Funeral Goods and Services. FAMSA recommended that the face-to-face exemption not be available to sellers and telemarketers of preneed funeral and cemetery sales. According to FAMSA, Rule coverage is appropriate here because abuses occur when aggressive telemarketing techniques are used to sell funeral goods and services to individuals who are particularly vulnerable because they are grieving the loss of a loved one.[402] The Commission recognizes that these individuals are a particularly vulnerable group and are deserving of protection. However, the Commission believes that the sale of preneed funeral good and services would be more appropriately addressed in the Funeral Rule, which is currently under review by the Commission.[403]

Isolated transactions. DSA proposed modifying the definition of ''telemarketing'' to state that it involves more than one telephone in order to emphasize the ''plan, program, or campaign'' element of the definition.[404] DSA stated that most of the phone calls made by direct sellers are made using the seller's home telephone line to call someone known to the seller, someone referred to the seller by a current customer, or to invite potential guests to a direct selling party.[405] DSA argued that these types of sellers should be distinguished from telemarketers who use boiler rooms to market their goods and services.

As explained, above, in the section discussing § 310.2 of the Rule, the Rule's definition of ''telemarketing'' tracks the statutory definition in the Telemarketing Act.[406] Thus, for purposes of the Rule, telemarketing ''means a plan, program, or campaign which is conducted to induce the purchase of goods or services by use of *one or more telephones* and which involves more than one interstate telephone call.''[407] Fraudulent telemarketing practices are not limited to boiler room operations. A series of telephone calls by one seller to several consumers would constitute telemarketing if those telephone calls are to induce the purchase of goods or services. Such a situation is as susceptible to fraud as is a boiler room or call center situation. Altering the definition to exclude telemarketers who use only their own phone to solicit customers would unnecessarily limit the scope of the Rule, and provide a potential loophole for fraudulent telemarketers. Individual telemarketers or sellers can engage in fraud regardless of the number of telephones they may use.

DSA also recommended exempting telephone calls where ''the solicitation is an isolated transaction and not done in the course of pattern or repeated transactions of like nature.''[408] An isolated transaction would not constitute ''a plan, program, or campaign'' and thus would not be subject to the Rule's provisions. The Rule already exempts isolated transactions through its definition of ''telemarketing'' and, therefore, the Commission does not believe it is necessary to amend the Rule to clarify that exclusion.

Prior business or personal relationship. DSA also proposed exempting ''telephone calls made to any person with whom the caller has a prior or established business or personal relationship.'' In advocating for this exemption, DSA noted that most of the phone calls made by direct sellers are to call someone known to the seller, someone referred to the seller by a current customer, or to invite potential guests to a direct selling party.[409] In the original rulemaking, the Commission declined to add an exemption for telephone calls made to a consumer with whom a business had a prior business relationship because it determined that such an exemption would be unworkable in the context of telemarketing fraud.[410] A prior business relationship exemption would enable fraudulent telemarketers who were able to fraudulently make an initial sale to a customer to continue to exploit that customer without being subject to the Rule.[411] The Commission continues to believe that such an exemption would work to the disadvantage of consumers, and thus declines to accept this recommendation.

G. Section 310.7—Actions by States and Private Persons

The Telemarketing Act grants the States and private persons the authority to enforce the TSR.[412] Section 310.7 details the procedures the States and private persons should follow in bringing actions under the Rule in order to maximize the impact of law enforcement actions by promoting consistency and coordination of effort. The language in this provision tracks the language of the sections of the Telemarketing Act that provide for enforcement of the TSR by the States and private persons. The Commission received no comments recommending changes to this section. Therefore, no change to § 310.7 is proposed.

Although there were no comments specifically on this section, representatives from industry, consumer groups, and State law enforcement praised the dual enforcement scheme that Congress set up in the Telemarketing Act. For example, MPA noted that fraudulent telemarketers' pattern of ''run(ning) from state to state to avoid prosecution'' has been stymied because under the Rule individual States can obtain nationwide injunctions.[413] Other commenters also supported the Act's dual enforcement scheme, noting that one factor that has been particularly essential to the Rule's success in curbing telemarketing fraud is the increased enforcement made

million adults, or 40 percent of the US population over 16 are accessing the Internet, up from 66 million in 1998.); *www.thestandard.com/research/metrics/display/0,2799,10089,00.html.*

[401] *See, e.g., Southwest Marketing Concepts; Saja; Dean Thomas Corp.; Century Corp.; Image Sales & Consultants; Omni Advertising: T.E.M.M. Mktg., Inc.; Tristate Advertising Unlimited, Inc.; Fold; Eight Point Communications. See also* Pa. Stat. Ann. tit. 10 § 162.15(A)(11) (West 2000).

[402] FAMSA at 2.

[403] FTC, Funeral Rule, 16 CFR 453. On May 5, 1999, the Commission published a request for comment in its review of the Funeral Rule. 64 FR 24249 (May 5, 1999). The review is still pending.

[404] DSA at 3.

[405] *Id.* at 3–4, 6. DSA represents approximately 200 companies that sell their products and services by personal presentation and demonstration, primarily in the home. DSA at 3.

[406] 15 U.S.C. 6106(4).

[407] 16 CFR 310.2(u) (emphasis added).

[408] DSA at 3.

[409] DSA at 3–4.

[410] 60 FR at 30423.

[411] *Id.*

[412] 15 U.S.C. 6103 (States) and 6104 (private persons).

[413] MPA at 11.

possible by allowing States to initiate actions under the Rule.[414]

State law enforcement officials also expressed strong approval for the Act's enforcement scheme, focusing on the efficiencies that the Act has created in the use of law enforcement resources. These commenters noted that the Act's enforcement scheme allows States to work together, and with the Commission, to jointly sue fraudulent telemarketers in a single action.[415] The Commission's own experience confirms that the dual enforcement provision of the Act has been integral in attacking telemarketing fraud. Working together with States in ''sweeps'' targeted at specific types of telemarketing scams, such as those touting advance fee loans or travel promotions, the Commission and States have brought over one hundred fifty actions since the Rule took effect.[416]

In contrast, the Rule review record regarding the private right of action available under the Act for violations of the TSR indicates two sources of frustration: The $50,000 monetary harm threshold consumers must meet to be eligible to sue under the Act for violations of the TSR, and the difficulty in identifying those who violate the Rule, particularly when a consumer wishes to enforce those provisions of the Rule aimed not at fraud and deception, but at abusive practices.[417]

As to the threshold amount of monetary harm, the Telemarketing Act prescribed that the amount in controversy required for a private person to bring an action under the Rule be $50,000.[418] Congress, and not Commission, is vested with the authority to alter this amount. Any change in this amount would necessarily be made by Congress through an amendment to the Telemarketing Act.

The Commission agrees that the difficulty of identifying those who violate the Rule has been an impediment to effective enforcement of the Rule, not only by private parties, but by law enforcement as well. While § 310.4(d)(1) of the Rule already requires telemarketers to disclose the identity of the seller promptly in each call, the Commission is persuaded that the Rule should be supplemented to ensure that consumers receive this important information in additional ways, where feasible. As discussed in detail above in connection with the proposed changes to § 310.4(a), the Commission believes that the enforceability of the Rule will be bolstered by the Commission's proposal to prohibit as an abusive practice any action by a telemarketer to block the calling party's name and telephone number, thus ensuring that, when feasible, consumers receive information about the identity of telemarketers who call them. In addition, the Commission believes that enforcement will be enhanced by its proposal in § 310.4(b)(1)(ii) to prohibit telemarketers from denying or interfering in any way with the consumer's right to be placed on a ''do-not-call'' list.

IV. Invitation To Comment

All persons are hereby given notice of the opportunity to submit written data, views, facts, and arguments concerning the proposed changes to the Commission's Telemarketing Sales Rule. The Commission invites written comments to assist it in ascertaining the facts necessary to reach a determination as to whether to adopt as final the proposed changes to the Rule. Written comments must be submitted to the Office of the Secretary, Room 159, FTC, 600 Pennsylvania Avenue, NW., Washington, DC 20580, on or before March 29, 2002. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552) and Commission Rules of Practice, on normal business days between the hours of 9:00 a.m. and 5 p.m. at the Public Reference Section, Room 130, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580. The Commission will make this Notice and, to the extent possible, all papers or comments received in electronic form in response to this Notice available to the public through the Internet at the following address: *www.ftc.gov.*

V. Public Forum

The FTC staff will conduct a public forum on June 5, 6, and 7, 2002, to discuss the written comments received in response to this **Federal Register** Notice. The purpose of the forum is to afford Commission staff and interested parties a further opportunity to discuss issues raised by the proposal and in the comments; and, in particular, to examine publicly any areas of significant controversy or divergent opinions that are raised in the written comments. The forum is not intended to achieve a consensus among participants or between participants and Commission staff with respect to any issue raised in the comments. Commission staff will consider the views and suggestions made during the forum, in conjunction with the written comments, in formulating its final recommendation to the Commission regarding amendment of the Telemarketing Sales Rule.

Commission staff will select a limited number of parties from among those who submit written comments to represent the significant interests affected by the issues raised in the Notice. These parties will participate in an open discussion of the issues, including asking and answering questions based on their respective comments. In addition, the forum will be open to the general public. The discussion will be transcribed and the transcription placed on the public record.

To the extent possible, Commission staff will select parties to represent the following interests: telemarketers, list providers, direct marketers, local exchange carriers, consumer groups, federal and State law enforcement and regulatory authorities, and any other interests that Commission staff may identify and deem appropriate for representation.

Parties who represent the above-referenced interests will be selected on the basis of the following criteria:

1. The party submits a written comment during the comment period.

2. During the comment period the party notifies Commission staff of its interest in participating in the forum.

3. The party's participation would promote a balance of interests being represented at the forum.

4. The party's participation would promote the consideration and discussion of a variety of issues raised in this Notice.

5. The party has expertise in activities affected by the issues raised in this Notice.

6. The number of parties selected will not be so large as to inhibit effective discussion among them.

VI. Communications by Outside Parties to Commissioners or Their Advisors

Written communications and summaries or transcripts of oral communications respecting the merits of this proceeding from any outside party to any Commissioner or Commissioner's advisor will be placed on the public record. See 16 C.F.R. 1.26(b)(5).

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[414] *See, e.g.,* AARP at 2; ATA at 10; NACAA at 1; NCL at 3.

[415] NAAG at 1; Texas at 1.

[416] The vast majority of these targeted sweeps have been accompanied by a media advisory and public education campaign, making them an important tool in raising public awareness of particular types of telemarketing fraud.

[417] *See* Kelly (1) at 1; DNC Tr. at 103, 106.

[418] *See* 15 U.S.C. 6104(a).

VII. Paperwork Reduction Act

In this Notice of Proposed Rulemaking, the Commission proposes to alter some collection of information requirements contained in the TSR. As required by the Paperwork Reduction Act of 1995 (''PRA''), 44 U.S.C. 3501–3517, the Commission has submitted a copy of the proposed revisions and a Supporting Statement for Information Collection Provisions of the Telemarketing Sales Rule (''Clearance Submission'') to the Office of Management and Budget (''OMB'') for its review.

The proposed amendments to the Rule presented in this Notice of Proposed Rulemaking clarify some of the Rule's language, add and change some disclosure items, amend the ''do-not-call'' requirements, modify some of the current exemptions, and expand the Rule's coverage by mandate of the USA PATRIOT Act. Each of these proposals will impact different industry members differently and, depending on the particular industry member, may reduce, increase, or have no effect on compliance costs and burdens. Several proposals provide new disclosure requirements—some for industry members generally, some for telemarketers soliciting charitable contributions that are now subject to the Rule, and others only in certain specific circumstances. Other proposed amendments clarify existing provisions and should provide an overall benefit to affected respondents without increasing costs. These clarifications, however, do not affect the collections of information contained in the regulation and therefore will not be addressed here. Only those proposals that might change an information collection requirement are discussed below.

Estimated Total Additional Hour Burden: 392,000 hours (rounded to the nearest thousand)

A. *Additional Hour Burden for Non-PATRIOT Act proposals:* 247,500 burden hours.

The current total public disclosure and recordkeeping burden for collections of information under the Rule is 2,301,000 hours, as stated most recently in the Commission's immediately preceding clearance submission for the TSR,[419] which OMB approved on July 24, 2001 under OMB Control No. 3084–0097 (expiration date July 31, 2004). Consistent with that submission and earlier ones addressing the Rule's issuance and ensuing requests for OMB clearance, Commission staff estimates that approximately 40,000 industry members make approximately 9 billion calls per year, or 225,000 calls per year per company.

Staff also noted during previous clearance processes, however, that the direct mail exemption in section 310.6(f), which includes all required disclosures under the Rule, would result in about 9,000 firms choosing that marketing method, and thereby become exempt from the remaining TSR requirements. Staff also estimated that the total time expenditure for the 31,000 firms choosing marketing methods that require these oral disclosures was 7.75 million hours, but that, based on the assumption that no more than 25 percent of that time constitutes ''burden'' imposed solely by the Rule (as opposed to the normal business practices of most affected entities apart from the Rule's requirements),[420] the burden subtotal attributable to these basic disclosures is 1,937,500 hours.

The Commission received no comments or other evidence to contradict these estimates during either the initial rulemaking or its subsequent OMB submissions for renewed clearance; thus, Commission staff will continue to use them to conduct the instant analysis under the PRA.

(1) *Proposed amendment to the definition of ''outbound call''.* The Commission proposes modifying the Rule's definition of ''outbound telephone call'' to clarify the Rule's coverage of outbound calls, which includes not only a call initiated by a telemarketer, but also instances when a call: (1) Is transferred to a telemarketer other than the original one; or (2) involves a single telemarketer soliciting on behalf of more than one seller or telemarketer seeking a charitable contribution. Based on its law enforcement experience and the record in this Rule review, the Commission believes the majority of these two additional types of calls will occur after an inbound call by a customer. According to the DMA's year 2000 Statistical Fact Book, 28 percent of its survey respondents said they used inbound calling as a direct marketing method in 1999.

Based on the DMA data, and assuming broadly that these additional types of calls will occur solely via inbound calls by a customer, staff estimates that of the 40,000 industry members affected by the Rule generally, approximately 11,200 (28% × 40,000 members) of them may additionally be subject to the Rule under the new definition of ''outbound call.'' Of those members, staff conservatively estimates, based on its law enforcement experience and industry research, that approximately one-third of telemarketers' calls, or around 75,000 calls per year per firm, involve a suggested transfer or further solicitation by a single telemarketer on behalf of a second entity. Staff also estimates that of the calls in which a transfer is suggested to the consumer or in which a second solicitation is attempted, 60% will be successfully transferred or ''upsold'' (versus an estimated 40% response rate for traditional outbound calls). Assuming, as staff has in the past that sales occur in 6 percent of all calls, that it takes 7 seconds to make the required disclosures, and that these proposed revisions will impose a paperwork burden only about 25% of the time,[421] staff estimates that the proposed amendment to the definition of ''outbound call'' will yield an increase of 245,000 burden hours.

(2) *Changes to the Express Verifiable Authorization Provision.* The Commission has proposed no changes to the Rule's recordkeeping requirements per se. However, because of the proposed changes to the express verifiable authorization provision, § 310.3(a)(3), the § 310.5(a)(5) mandate that sellers and telemarketers keep all verifiable authorizations required to be provided or received under the Rule suggests that additional records must be retained. Nonetheless, as noted above in the discussion of the express verifiable authorization provision of the Rule, the Rule review record indicates that virtually all telemarketers already keep such records in the ordinary course of business. Thus, there should be minimal or no incremental recordkeeping burden resulting from the contemplated Rule changes.

The recordkeeping provision, however, now also applies to telemarketers soliciting charitable contributions, pursuant to the change in the definition of ''telemarketing'' made in the USA PATRIOT Act. Staff estimates that approximately 2,500 telemarketers are solely engaged in the solicitation of charitable contributions, and that no more than 2% of

[419] 66 Fed. Reg. 33,701 (June 25, 2001).

[420] OMB does not view as ''burden'' the time, effort, and financial resources necessary to comply with a collection of information that would normally be incurred by persons in the normal course of their activities to the extent that the activities are usual and customary. 5 CFR 1320.3(b)(2).

[421] *See, e.g,* 63 FR 40713 (1998), 66 FR 33701 (2001), in which the Commission assumed that sales occurred in 6 percent of all outbound calls, that it took 7 seconds to make the required disclosures, and that about 75% of affected entities already are making these discloures. *See also* 60 FR 32682 (1995).

telemarketers of goods or services also engage in such activities. Staff conservatively estimates that this provision will account for no more than one hour of recordkeeping burden per entity engaged solely in the solicitation of charitable contributions. Those entities conducting telemarketing campaigns in both sales and solicitations of charitable contributions are already subject to the Rule regarding their sales activities, and, to the extent that they are compliant with the Rule, already perform recordkeeping pursuant to it. Consequently, staff anticipates that incremental recordkeeping burden for those entities would be de minimis. Accordingly, the total increase in recordkeeping burden attributable to this provision is approximately 2,500 (2,500 telemarketers engaged solely in soliciting charitable contributions × 1 hour each for recordkeeping under the Rule).

(3) *Adoption of a national ''do-not-call'' registry.* As discussed with regard to § 310.4(b)(1)(iii), the Commission proposes to amend the original Rule to provide consumers the option of placing themselves on a national ''do-not-call'' registry, maintained by the Commission. Telemarketers would be required, at least monthly, to obtain the Commission's registry in order to update their own call lists, ensuring that consumers who have requested inclusion on the Commission's registry will be deleted from telemarketers' call lists. Staff believes that the incremental PRA effects would be minimal and, possibly, lead to reduced burden for telemarketers. Many affected entities, whether telemarketing for commercial or charitable organizations, already have in place procedures either for scrubbing their own lists (to the extent that they maintain such lists) or for inputting into their automatic dialing systems the numbers of persons who have requested not to be called. Moreover, it is possible that some states may partially rescind their own provisions with regard to interstate calls in favor of the instant proposed rule. The effect of such centralization would be to simplify the process for telemarketers as well as consumers and thereby reduce cumulative burden.

B. Additional Hour Burden for PATRIOT Act proposals: 144,375 burden hours.

As noted above, section 1011 of the USA PATRIOT Act amended the Telemarketing Act to extend the Act's coverage to solicitations for charitable contributions. Specifically, section 1011(b)(2) of the PATRIOT Act adds a new section to the Telemarketing Act mandating that the Commission include new requirements in the ''abusive telemarketing acts or practices'' provisions of the TSR. The proposed Rule, therefore, includes proposed § 310.4(e), which requires telemarketers soliciting on behalf of charitable organizations to make two oral disclosures in the course of the telephone solicitation.

Based on analysis of data from a sampling of states requiring registration of professional fundraisers, including telemarketers, staff conservatively estimates that there are approximately 2,500 telemarketing firms potentially subject to the proposed amendments of the Rule specific to the PATRIOT Act. Additionally, staff estimates that approximately 2% of the telemarketers currently subject to the Rule also solicit charitable contributions, and thus will now be subject to additional disclosure requirements. Thus, the total number of entities staff estimates will be affected by these additional requirements is approximately 3,300.

Proposed § 310.4(e) requires telemarketers soliciting charitable contributions to make two prompt and clear disclosures at the start of each call. This provision was drafted to mirror current § 310.4(d), which includes four required disclosures, and which staff previously estimated would take 7 seconds to make in the course of each telemarketing call. Given that there are half as many disclosures required of telemarketers under proposed § 310.4(e), staff estimates that these disclosures will take approximately 4 seconds per call. As with commercial telemarketing calls, staff's estimate anticipates that at least 60% of calls result in ''hang-ups'' before the telemarketer has the opportunity to make all of the required oral disclosures (resulting in, approximately, a 2-second call). Finally, as is the case with telemarketing of goods or services, the Commission believes that telemarketers already are making the required disclosures in the majority of telemarketing transactions subject to these provisions under the USA PATRIOT Act amendments. Accordingly, staff estimates that the proposed provision will yield an added PRA burden in only 25% of affected transactions. Applying these assumptions and estimates, staff concludes that the new disclosure requirements will result in an additional burden of 144,375 hours. ((225,000 calls/year × 60% hang-ups after 2 seconds) + (225,000 calls/year × 40% with 4-seconds full disclosure)) × 3,300 firms × 25% of them making these additional disclosures solely due to the Rule revisions.)

Thus, total estimated annual hour burden for the TSR will be 2,693,000 hours, including the effects of the proposed Rule changes.

Estimated Total Additional Cost Burden: $1,402,000 (rounded to the nearest thousand).

(1) *Non-PATRIOT Act proposals:* $882,000.

The current estimate of the cost to comply with the Rule's information collection requirements is $10,022,000.[422] With regard to its proposed additional disclosure requirements, the Commission recognizes, as it did during the initial rulemaking, that telemarketing firms may incur additional costs for telephone service, assuming that the firms spend more time on the telephone with customers given the proposed disclosure requirements. As noted above, staff estimates that the proposed amendment to the definition of ''outbound call'' will yield an increase of 245,000 burden hours. Assuming all calls to customers are long distance and a commercial calling rate of 6 cents per minute ($3.60 per hour), affected entities as a whole may incur up to $882,000 in associated telecommunications costs.

(2) *PATRIOT Act proposals:* $519,750.

The Commission recognizes that telemarketing firms now subject to the Rule after the PATRIOT Act amendments may incur additional costs for telephone service, assuming that the firms spend more time on the telephone with customers due to the proposed disclosure requirements specific to the solicitation of charitable contributions. As noted abvoe, staff estimates that the proposed amendments arising from this Act will result in 144,375 additional burden hours. Assuming all calls to customers are long distance and a commercial calling rate of 6 cents per minute ($3.60 per hour), affected entities as a whole may incur up to $519,750 in associated telecommunications costs.

Thus, total estimated annual cost burden for the TSR will be $11,424,000, including the effects of the proposed Rule changes.

Request for Comments

The Commission invites comment that will enable it to:

1. Evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility;

[422] *See* 66 FR at 33,702.

2. Evaluate the accuracy of the staff's estimates of the burdens of the proposed collections of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and validity of the information to be collected; and

4. Minimize the burden of the collections of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical or other technological collection techniques or other forms of information technology.

VIII. Regulatory Flexibility Act

The Regulatory Flexibility Act provides for analysis of the potential impact on small entities of rules proposed by federal agencies.[423] In publishing the originally proposed TSR, the Commission certified, subject to subsequent public comment, that the proposed Rule, if promulgated, would not have a significant economic impact on a substantial number of small entities.[424] After receiving public comment, the Commission determined that this projection was correct, and certified this fact to the Small Business Administration.[425] In issuing this Notice proposing amendments to the TSR, the Commission similarly certifies that these Rule amendments, if adopted, will not have a significant economic impact on a substantial number of small entities.[426]

In originally promulgating the TSR, which applied to sellers and telemarketers engaged in the interstate telemarketing of goods or services, the Commission recognized that the Rule might affect a substantial number of small entities. The amendments now proposed may also affect a substantial number of small entities. Nevertheless, the Commission believes that the proposed amendments—including expansion of the definition of ''outbound call,'' expansion of the scope of the express verifiable authorization provisions to cover additional payment methods, and the formulation of a national do-not-call registry—would not have a significant economic impact on such entities. As explained above in the discussion of each proposed amendment and the PRA analysis, the amendments proposed in this NPRM reflect changes to the existing Rule, intended to better effectuate the mandate of the Telemarketing Act. They would not have a significant economic impact on small entities because they reflect practices that already are being implemented or utilized by most telemarketing firms, are already required of them by state statutes, or impose a minimal burden on these entities.

In addition, the Commission believes that the amendments required by the USA PATRIOT Act, which apply to telemarketing firms conducting telemarketing campaigns on behalf of charitable organizations, are not likely to affect a substantial number of small entities. The Commission's understanding is that most such telemarketing firms are not small businesses. However, even if the amendments would affect a substantial number of small entities, the Commission believes that the proposed amendments will not have a significant economic impact upon such entities. The disclosure requirements proposed in the NPRM mirror the requirements already in effect regarding telemarketers of goods and services, and, in fact, are fewer in number, imposing even less burden on solicitors of charitable contributions under the proposed amendments. Moreover, as with the sale of goods or services, most telemarketers soliciting charitable contributions already are making such disclosures in the ordinary course of business, either voluntarily or pursuant to state statute. Similarly, the Commission tailored the recordkeeping requirements that would be applicable to these firms to be the least burdensome possible to effectuate the goals of the TSR. Also, the kinds of records that would be required by an amended TSR are kept by most firms in the ordinary course of business. Finally, the establishment of a national do-not-call registry will have no significant impact on such entities, since most are already subject to similar state-mandated do-not-call regulations.

However, to ensure that the agency is not overlooking any possible substantial economic impact, the Commission is requesting public comment on the effect of the proposed regulations on the costs to, profitability and competitiveness of, and employment in small entities. Subsequent to the receipt of public comments, the Commission will determine whether the preparation of a final regulatory flexibility analysis is warranted. Accordingly, based on available information, the Commission hereby certifies under the Regulatory Flexibility Act, 5 U.S.C. 605(b), that the proposed regulations will not have a significant economic impact on a substantial number of small entities. This Notice also serves as certification to the Small Business Administration of that determination.

IX. Questions for Comment on the Proposed Rule

The Commission seeks comment on various aspects of the proposed Rule. Without limiting the scope of issues on which it seeks comment, the Commission is particularly interested in receiving comments on the questions that follow. In responding to these questions, include detailed, factual supporting information whenever possible.

General Questions for Comment

Please provide comment, including relevant data, statistics, consumer complaint information, or any other evidence, on each different proposed change to the Rule. Regarding each proposed modification commented on, please include answers to the following questions:

(a) What is the effect (including any benefits and costs), if any, on consumers?

(b) What is the impact (including any benefits and costs), if any, on individual firms that must comply with the Rule?

(c) What is the impact (including any benefits and costs), if any, on industry?

(d) What changes, if any, should be made to the proposed Rule to minimize any cost to industry or consumers?

(e) How would each suggested change affect the benefits that might be provided by the proposed Rule to consumers or industry?

(f) How would the proposed Rule affect small business entities with respect to costs, profitability, competitiveness, and employment?

Questions on Proposed Specific Changes

In response to each of the following questions, please provide: (1) Detailed comment, including data, statistics, consumer complaint information and other evidence, regarding the problem referred to in the question; (2) comment as to whether the proposed changes do or do not provide an adequate solution to the problems they were intended to address, and why; and (3) suggestions for additional changes that might better maximize consumer protections or minimize the burden on industry.

A. Scope

1. Has the Internet affected the way telemarketing companies conduct business? If so, what has the effect been? What, if any, changes have occurred in telemarketing as a result of the Internet? Have consumers lost any protections against deceptive or abusive acts or

[423] U.S.C. 603–604.

[424] 60 FR at 8322.

[425] 60 FR at 43863.

[426] 5 U.S.C. 605(b).

practices in telemarketing as a result of this development?

2. Does the Rule's coverage of for-profit telemarketers working on behalf of sellers outside the FTC's jurisdiction affect the business relationships created between those telemarketers and those sellers? If so, how do these changes in business relationships affect consumer protections provided by the Rule?

3. Do the Commission's proposals to expand the scope of the TSR to cover solicitation of charitable contributions by for-profit telemarketers, but not by non-profit charitable organization, achieve the Congressional purpose of section 1011 of the USA PATRIOT Act? Has the Commission proposed all changes to the text necessary to effectuate that Act? Are all proposed changes consistent and workable? What are the relative costs and benefits of coverage of calls placed by for-profit telemarketers, but not by non-profit charitable organizations?

B. Definitions

1. Is the proposed definition of ''billing information'' broad enough to capture any information that can be used to bill a consumer for goods or services or a charitable contribution? Is the definition too broad?

2. Is the definition of ''caller identification services'' broad enough to capture all devices and services that now or may in the future provide a telephone subscriber with the name and telephone number of the calling party?

3. Is the definition of ''charitable contribution'' appropriate and sufficient to effectuate section 1011 of the USA PATRIOT Act? If not, how can it be improved upon? Are the exclusions of political clubs and certain religious organizations appropriate? Should there be other exclusions? If so, why and on what basis?

4. Is the proposed definition of ''donor'' appropriate and sufficient to effectuate section 1011 of the USA PATRIOT Act? What, if any, changes could be made to improve it?

5. Is the proposed definition of ''express verifiable authorization'' adequate? What, if any, changes could be made to improve it?

6. Does the proposed definition of ''Internet services'' accurately define the scope of Internet-related services offered to customers through telemarketing?

7. Is the proposed definition of ''outbound telephone call'' adequate to address up-selling situations where the call is transferred from one telemarketer to another? If not, why not? Is the definition adequate to address situations where a single telemarketer in the initial part of the call is selling on behalf of one seller, and subsequently during the call begins selling on behalf of another seller? If not, why not? What are the benefits to consumers and the burdens to telemarketers and sellers of this definition?

a. In what circumstances do telemarketers currently transfer a call from one telemarketer to another? In what circumstances does a single telemarketer start a call promoting the products or services of one seller, and subsequently during the call sells on behalf of one or more other sellers? What are the benefits of these practices? What abusive or deceptive practices are associated with them?

b. Should calls made by a customer directly to a telemarketer be treated differently from calls transferred to a telemarketer by another person? If so, what differences in treatment by the Rule are appropriate? If not, why not?

c. What would be the benefits to consumers of treating calls made by a customer directly to a telemarketer differently from calls transferred to a telemarketer by another person?

d. What burdens, if any, would treating a transferred telemarketing call the same as an outbound telemarketing call place on sellers and telemarketers?

e. How has the increased prevalence of up-selling since the Rule was promulgated affected telemarketing and the effectiveness of the Rule?

8. Is the proposed definition of ''Web services'' sufficiently broad to encompass the range of Internet-related services offered to consumers, particularly businesses, through telemarketing?

C. Deceptive Telemarketing Acts or Practices

1. The proposed Rule would prohibit misrepresentations regarding seven enumerated topics in connection with solicitations by telemarketers for charitable contributions. Is each of these prohibitions necessary? Is each sufficiently widespread to justify inclusion in the Rule? What are the relative costs to consumers and burdens to industry of prohibiting these practices? Are there changes that could be made to lessen the burdens without harming donors? Are there other widespread misrepresentations that the TSR should prohibit?

2. Under the Rule, if a seller will bill charges to a consumer's account at the end of a free trial period unless the consumer takes affirmative action to prevent that charge, that fact must be disclosed as a material restriction, limitation, or condition under § 310.3(a)(1)(ii). Does this provision adequately protect consumers against unanticipated and unauthorized charges associated with free trial offers? If not, what additional protections are needed? What benefits does this provision provide to consumers, sellers or telemarketers? What costs does this requirement impose on affected businesses?

3. Under the proposed Rule, sellers and telemarketers would no longer have the option of providing written confirmation as a method of express verifiable authorization. What are the costs and benefits to consumers and industry of eliminating this option of providing authorization?

4. The proposed Rule requires that any credit card loss protection plan must provide consumers with information about the consumers' potential liability under the Consumer Credit Protection Act. Does the proposed provision adequately address the problems associated with the sale of credit card loss protection plans?

a. What are the costs and benefits of this provision to industry? to consumers?

b. Does the proposed provision differentiate clearly between legitimate credit card registration plans and fraudulent credit cost loss protection plans? If not, how should the Rule be changed to accomplish this?

c. How should the disclosure be given? In writing? Orally? What costs would a writing requirement impose on industry? What, if any, benefits? What would be the costs and benefits to consumers?

5. What are the implications of the new Electronic Signature (''E-Sign'') law for telemarketing? Is the requirement that any signature be ''verifiable'' adequate to protect consumers? If not, what other protections are necessary?

6. What changes, if any, to the *scienter* requirement in the assisting and facilitating provision, § 310.3(b), would be appropriate to better ensure effective law enforcement?

7. What changes, if any, to the credit card laundering provision, § 310.3(c), would be appropriate to better ensure effective law enforcement? Is it appropriate for this provision to cover telemarketers engaged in the solicitation of charitable contributions?

D. Abusive Telemarketing Acts or Practices

1. In order to address the problems associated with preacquired account telemarketing, the proposed Rule prohibits a seller or telemarketer from receiving from any person other than the consumer or donor, or disclosing to any other person, a consumer's or donor's billing information. The only

circumstance in which the proposed Rule would allow receipt of a consumer's or donor's billing information from, or disclosure of the consumer's or donor's billing information to, another party is when the information is used to process a payment in a transaction where the consumer or donor has disclosed the billing information and authorized its use to process that payment.

a. How will this provision interplay with the requirements of the Gramm-Leach-Bliley Act?

b. Will this proposed change adequately address the problems resulting from preacquired account telemarketing? Will this action adequately protect consumers from being billed for unauthorized charges?

c. If not, what changes to the Rule would provide better protection to consumers?

d. What additional provisions, if any, should be included to protect customers from unauthorized billing?

e. What specific, quantifiable benefits to sellers or telemarketers result from preacquired account telemarketing?

f. Is extension of this provision to cover telemarketers soliciting on behalf of charitable organizations appropriate to effectuate the USA PATRIOT amendments to the Telemarketing Act? If not, why not?

2. How do the credit card chargeback rates and error rates for telemarketers that use preacquired billing information compare with the chargeback rates and error rates for telemarketers that do not use preacquired billing information?

3. The proposed Rule prohibits blocking or altering the transmission of caller identification (''Caller ID'') information, but allows altering the Caller ID information to provide the actual name of the seller or charitable organization and the seller's or charitable organization's customer or donor service number.

a. What costs would this provision impose on sellers? On charitable organizations? On telemarketers? Are these costs outweighed by the benefits the provision would confer on consumers and donors?

b. Have significant numbers of consumers used Caller ID information to contact sellers, telemarketers, or charitable organizations to make ''do-not-call'' requests?

c. What, if any, trends in telecommunications technology might permit the transmission of full Caller ID information when the caller is using a trunk line or PBX system?

d. How are telemarketing firms currently meeting the regulatory requirements in States that have passed legislation requiring the transmission of full caller identification information by telemarketers?

e. If Caller ID information is transmitted in a telemarketing call, should the information identify the seller (or charitable organization) or should it identify the telemarketer? Is it technologically feasible for the calling party to alter the information displayed by Caller ID so that the seller's name and customer service telephone number or the charitable organization's name and donor service number, are displayed rather than the telemarketer's name and the telephone number from which the call is being placed? If not currently feasible, is such substitution of the seller's or charitable organization's information for that of the telemarketer likely to become feasible in the future?

f. Would charitable organizations likely make use of the option to transmit Caller ID information that provides the charitable organization's name and a ''donor service'' number? What would be the costs and benefits to charitable organizations of doing this?

g. Would it be desirable for the Commission to propose a date in the future by which all telemarketers would be required to transmit Caller ID information? If so, what would be a reasonable date by which compliance could be required? If not, why not?

h. Does the proposed Rule provide adequate protection against misleading or deceptive information by allowing for alteration to provide beneficial information to consumers, *i.e.,* the actual name of the seller and the seller's customer service number, or the charitable organization and the charitable organization's donor service number? What would be the costs and benefits if the Rule were simply to prohibit any alteration of Caller ID information that is misleading? Should the proposed Rule make any exception to the prohibition on altering Caller ID information?

4. The proposed Rule would prohibit a seller, or a telemarketer acting on behalf of a seller or charitable organization, from denying or interfering with the consumer's right to be placed on a ''do-not-call'' list or registry. Is this proposed provision adequate to address the problem of telemarketers hanging up on consumers or otherwise erecting obstacles when the consumer attempts to assert his or her ''do-not-call'' rights? What alternatives exist that might provide greater protections?

5. The proposed Rule would establish a national ''do-not-call'' registry maintained by the Commission.

a. What expenses will sellers, and telemarketers acting on behalf of sellers or charitable organizations, incur in order to reconcile their call lists with a national registry on a regular basis? What changes, if any, to the proposed ''do-not-call'' scheme could reduce these expenses? Can the offsetting benefits to consumers of a national do-not-call scheme be quantified?

b. Is the restriction on selling, purchasing or using the ''do-not-call'' registry for any purposes except compliance with §§ 310.4(b)(1)(iii) adequate to protect consumers? Will this provision create burdens on industry that are difficult to anticipate or quantify? What restrictions, if any, should be placed on a person's ability to use or sell a ''do-not-call'' database to other persons who may use it other than for the purposes of complying with the Rule?

c. Would a list or database of telephone numbers of persons who do not wish to receive telemarketing calls have any value, other than for its intended purpose, for sellers and telemarketers?

d. How long should a telephone number remain on the central ''do-not-call'' registry? Should telephone numbers that have been included on the registry be deleted once they become reassigned to new consumers? Is it feasible for the Commission to accomplish this? If so, how? If not, should there be a ''safe harbor'' provision for telemarketers who call these reassigned numbers?

e. Who should be permitted to request that a telephone number be placed on the ''do-not-call'' registry? Should permission be limited to the line subscriber or should requests from the line subscriber's spouse be permitted? Should third parties be permitted to collect and forward requests to be put on the ''do-not-call'' registry? What procedures, if any, would be appropriate or necessary to verify in these situations that the line subscriber intends to be included on the ''do-not-call'' registry?

f. What security measures are appropriate and necessary to ensure that only those persons who wish to place their telephone numbers on the ''do-not-call'' registry can do so? What security measures are appropriate and necessary to ensure that access to the registry of numbers is used only for TSR compliance? What are the costs and benefits of these security measures?

g. Should consumers be able to verify that their numbers have been placed on the ''do-not-call'' registry? If so, what form should that verification take?

h. Should the ''do-not-call'' registry allow consumers to specify the days or time of day that they are willing to accept telemarketing calls? What are the costs and benefits of allowing such selective opt-out/opt-in?

i. Should the ''do-not-call'' registry be structured so that requests not to receive telemarketing calls to induce the purchase of goods and services are handled separately from requests not to receive calls soliciting charitable contributions?

j. Some states with centralized statewide ''do-not-call'' list programs charge telemarketers for access to the list to enable them to ''scrub'' their lists. In addition, some of these states charge consumers a fee for including their names and/or phone numbers on the statewide ''do-not-call'' list. Have these approaches to covering the cost of the state ''do-not-call'' list programs been effective? What have been the problems, if any, with these two approaches?''

6. What should be the interplay between the national ''do-not-call'' registry and centralized state ''do-not-call'' requirements? Would state requirements still be needed to reach intrastate telemarketing? Would the state requirements be pre-empted in whole or in part? If so, to what degree? Should state requirements be pre-empted only to the extent that the national ''do-not-call'' registry would provide more protection to consumers? Will the national do-not-call registry have greater reach than state requirements with numerous exceptions?

7. What procedures could ensure that telephone numbers placed on the ''do-not-call'' registry by consumers who subsequently change their numbers do not stay on the registry? Can information be obtained from the local exchange carriers or other telecommunications entities that would enable this to be done, and if so, how? If not, why not?

8. What procedures could be established to update numbers in the ''do-not-call'' registry when the area codes associated with those numbers change?

9. The proposed Rule would permit consumers or donors who have placed their names and/or telephone numbers on the central ''do-not-call'' registry to provide to specific sellers or charitable organizations express verifiable authorization to receive telemarketing calls from those sellers or telemarketers acting on behalf of those sellers or charitable organizations.

a. What are the costs and benefits of providing consumers or donors an option to agree to receiving calls from specific entities?

b. What are the costs and benefits to sellers and telemarketers of providing consumers and donors with this option? What expenses will sellers and telemarketers incur to ensure that they have the authorization of the consumer or donor to call? What, if any, expenses will they incur in reconciling these authorizations against the central registry?

c. How will this requirement affect those entities with which a consumer (or donor) has a preexisting business (or philanthropic) relationship (such as bookstores and the like)?

d. Does the proposed Rule's express verifiable authorization provision for agreeing to receive calls from specific sellers, or telemarketers acting on behalf of those sellers or on behalf of specific charitable organizations, provide sufficient protection to consumers?

e. Does the proposed Rule provide sufficient guidance to business on what information is sufficient to evidence a consumer's express verifiable authorization to opt in to receiving calls from a specific seller, or a telemarketer acting on behalf of that seller or on behalf of a specific charitable organization? Is there additional information that should be required in order to evidence the consumer's express verifiable authorization?

10. Is the Commission's position regarding the timing of disclosures in multiple purpose calls sufficiently clear? If not, what additional clarification is needed?

11. Is the fact that, in the Commission's view, telemarketers who abandon calls are violating § 310.4(d) sufficient to curtail abuses of this technology? Is there additional language that could be added to the Rule that would more effectively address this problem?

a. Should the Commission mandate a maximum setting for abandoned calls, and, if so, what should that setting be? How could such a limit be policed? What are the benefits and costs to consumers and to industry from such an approach?

b. Would it be feasible to limit the use of predictive dialers to only those telemarketers who are able to transmit Caller ID information, including a meaningful number that the consumer could use to return the call? Would providing consumers with this information alleviate the injury consumers are now sustaining as a result of predictive dialer practices? What would be the costs and burdens to sellers, charitable organizations, and telemarketers of such action?

c. Would it be beneficial to businesses and charitable organizations to allow them to play a tape-recorded message when the use of a predictive dialer results in a shortage of telemarketing agents available to take calls? What would be costs and benefits to consumers if such tape-recorded messages were permitted?

12. Proposed § 310.4(e) requires telemarketers soliciting charitable contributions to promptly, clearly and truthfully disclose that the purpose of the call is to solicit a charitable contribution and the identity of the charitable organization on behalf of which the call is being made.

a. Are the proposed disclosures sufficient to effectuate the purposes of the USA PATRIOT Act amendments?

b. Absent other disclosures, are donors likely to suffer an invasion of privacy or incur substantial unavoidable injury that is not outweighed by countervailing benefits? If so, what are these disclosures, and would they be permissible under leading First Amendment decisions, such as *Riley* v. *Nat'l Fed. of Blind?*

c. Should this provision of the TSR require disclosure of the mailing address of the charitable organization on behalf of which a telemarketer is soliciting a contribution? Should such disclosure be required only upon some triggering event, such as the donor's inquiry, or the donor's assent to contribute? What would be the costs to charitable organizations and telemarketers to require mailing address disclosure? What benefits to consumers would result from such a requirement?

13. The Commission is concerned about the misuse of personal information in connection with the use of prisoners as telemarketers.

a. To what extent does the telemarketing industry use inmate work programs? What are the costs and benefits of the use of prison-based telemarketing to industry? To charitable organizations? To the public? Is this a practice more appropriate to address at the federal level rather than through State legislatures or State regulatory agencies?

b. Are there alternatives to banning prison-based telemarketing that would provide adequate protection to the public against misuse of personal information and abusive telemarketing by prisoner-telemarketers? For example, are any monitoring systems available that would prevent abuses by prison-based telemarketers? If so, would the cost of these systems be prohibitively high for telemarketers? Would a disclosure requirement (*i.e.,* disclosure to the consumer that the caller is a

prisoner) provide adequate protection for consumers? Would a ban provide sufficient protection?

c. To what extent, if any, do charitable organizations make use of prison-based telemarketing?

E. Exemptions

1. What costs and burdens will be placed on industry by the proposed requirement that firms that are exempt from the Rule under §§ 310.6(a)—(c) comply with the requirements of §§ 310.4(a)(1) and (6) and §§ 310.4(b) and (c)? What benefits would this proposed change provide to consumers?

2. What are the costs and burdens imposed upon industry by the proposed modifications to the general media exemption? What benefits to the public will these proposed changes provide? Are there alternative proposals that would provide the necessary protection for consumers while minimizing the burden on industry? Are there additional products and services that should be excepted from the general media exemption? What benefits and burdens would accrue from excluding from the exemption any calls in response to general media advertisements where disclosures required by § 310.3(a)(1) were not made either in the advertisement or in the call?

3. What are the costs and burdens imposed upon industry by the proposed modifications to the direct mail exemption? What benefits to the public will these proposed changes provide? Are there alternative proposals that would provide the necessary protection for consumers while minimizing the burden on industry? Does the proposed Rule sufficiently clarify the types of mail transmission methods that will be considered ''direct mail'' for purposes of the Rule? Are there additional methods of solicitation that should be included within the term ''direct mail''?

4. What costs and burdens to industry will be imposed by the proposed modification to the business-to-business exemption? What benefits to the public will this proposed change provide? Are there alternative methods that would provide the necessary protections to the public while minimizing burdens on industry? Is it appropriate to exclude from the coverage of this exemption telemarketing calls made on behalf of charitable organizations? If not, why?

Questions Relating to the Paperwork Reduction Act

The Commission solicits comments on the reporting and disclosure requirements above to the extent that they constitute ''collections of information'' within the meaning of the PRA. The Commission requests comments that will enable it to:

1. Evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected, and;

4. Minimize the burden of the collections of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (*e.g.,* permitting electronic submission of responses).

X. Proposed Rule

List of Subjects in 16 CFR Part 310

Telemarketing, Trade practices.

Accordingly, it is proposed that part 310 of title 16 of the Code of Federal Regulations, be revised to read as follows:

PART 310—TELEMARKETING SALES RULE

Sec.

310.1 Scope of regulations in this part.
310.2 Definitions.
310.3 Deceptive telemarketing acts or practices
310.4 Abusive telemarketing acts or practices.
310.5 Recordkeeping requirements.
310.6 Exemptions.
310.7 Actions by States and private persons.
310.8 Severability.

Authority: 15 U.S.C. 6101–6108.

§ 310.1 Scope of regulations in this part.

This part implements the Telemarketing and Consumer Fraud and Abuse Prevention Act, 15 U.S.C. 6101–6108, as amended.

§ 310.2 Definitions.

(a) *Acquirer* means a business organization, financial institution, or an agent of a business organization or financial institution that has authority from an organization that operates or licenses a credit card system to authorize merchants to accept, transmit, or process payment by credit card through the credit card system for money, goods or services, or anything else of value.

(b) *Attorney General* means the chief legal officer of a State.

(c) *Billing information* means any data that provides access to a consumer's or donor's account, such as a credit card, checking, savings, share or similar account, utility bill, mortgage loan account or debit card.

(d) *Caller identification service* means a service that allows a telephone subscriber to have the telephone number, and, where available, name of the calling party transmitted contemporaneously with the telephone call, and displayed on a device in or connected to the subscriber's telephone.

(e) *Cardholder* means a person to whom a credit card is issued or who is authorized to use a credit card on behalf of or in addition to the person to whom the credit card is issued.

(f) *Charitable contribution* means any donation or gift of money or any other thing of value; provided, however, that such donations or gifts of money or any other thing of value solicited by or on behalf of the following shall be excluded from the definition of charitable contribution for the purposes of this Rule:

(1) Political clubs, committees, or parties; or

(2) Constituted religious organizations or groups affiliated with and forming an integral part of the organization where no part of the net income inures to the direct benefit of any individual, and which has received a declaration of current tax exempt status from the United States government.

(g) *Commission* means the Federal Trade Commission.

(h) *Credit* means the right granted by a creditor to a debtor to defer payment of debt or to incur debt and defer its payment.

(i) *Credit card* means any card, plate, coupon book, or other credit device existing for the purpose of obtaining money, property, labor, or services on credit.

(j) *Credit card sales draft* means any record or evidence of a credit card transaction.

(k) *Credit card system* means any method or procedure used to process credit card transactions involving credit cards issued or licensed by the operator of that system.

(l) *Customer* means any person who is or may be required to pay for goods or services offered through telemarketing.

(m) *Donor* means any person solicited to make a charitable contribution.

(n) *Express verifiable authorization* means the informed, explicit consent of a consumer or donor, which is capable of substantiation.

(o) *Internet services* means the provision, by an Internet Service Provider, or another, of access to the Internet.

(p) *Investment opportunity* means anything, tangible or intangible, that is offered, offered for sale, sold, or traded based wholly or in part on representations, either express or implied, about past, present, or future income, profit, or appreciation.

(q) *Material* means likely to affect a person's choice of, or conduct regarding,

(1) Goods or services; or

(2) A charitable contribution.

(r) *Merchant* means a person who is authorized under a written contract with an acquirer to honor or accept credit cards, or to transmit or process for payment credit card payments, for the purchase of goods or services or a charitable contribution.

(s) *Merchant agreement* means a written contract between a merchant and an acquirer to honor or accept credit cards, or to transmit or process for payment credit card payments, for the purchase of goods or services or a charitable contribution.

(t) *Outbound telephone call* means any telephone call to induce the purchase of goods or services or to solicit a charitable contribution, when such telephone call:

(1) Is initiated by a telemarketer;

(2) Is transferred to a telemarketer other than the original telemarketer; or

(3) Involves a single telemarketer soliciting on behalf of more than one seller or charitable organization.

(u) *Person* means any individual, group, unincorporated association, limited or general partnership, corporation, or other business entity.

(v) *Prize* means anything offered, or purportedly offered, and given, or purportedly given, to a person by chance. For purposes of this definition, chance exists if a person is guaranteed to receive an item and, at the time of the offer or purported offer, the telemarketer does not identify the specific item that the person will receive.

(w) *Prize promotion* means:

(1) A sweepstakes or other game of chance; or

(2) An oral or written express or implied representation that a person has won, has been selected to receive, or may be eligible to receive a prize or purported prize.

(x) *Seller* means any person who, in connection with a telemarketing transaction, provides, offers to provide, or arranges for others to provide goods or services to the customer in exchange for consideration.

(y) *State* means any State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, and any territory or possession of the United States.

(z) *Telemarketer* means any person who, in connection with telemarketing, initiates or receives telephone calls to or from a customer or donor.

(aa) *Telemarketing* means a plan, program, or campaign which is conducted to induce the purchase of goods or services or a charitable contribution, by use of one or more telephones and which involves more than one interstate telephone call. The term does not include the solicitation of sales through the mailing of a catalog which: Contains a written description or illustration of the goods or services offered for sale; includes the business address of the seller; includes multiple pages of written material or illustrations; and has been issued not less frequently than once a year, when the person making the solicitation does not solicit customers by telephone but only receives calls initiated by customers in response to the catalog and during those calls takes orders only without further solicitation. For purposes of the previous sentence, the term ''further solicitation'' does not include providing the customer with information about, or attempting to sell, any other item included in the same catalog which prompted the customer's call or in a substantially similar catalog.

(bb) *Web services* means designing, building, creating, publishing, maintaining, providing or hosting a website on the Internet.

§ 310.3 Deceptive telemarketing acts or practices.

(a) *Prohibited deceptive telemarketing acts or practices.* It is a deceptive telemarketing act or practice and a violation of this Rule for any seller or telemarketer to engage in the following conduct:

(1) Before a customer pays [1] for goods or services offered, failing to disclose truthfully, in a clear and conspicuous manner, the following material information:

(i) The total costs to purchase, receive, or use, and the quantity of, any goods or services that are the subject of the sales offer; [2]

(ii) All material restrictions, limitations, or conditions to purchase, receive, or use the goods or services that are the subject of the sales offer;

(iii) If the seller has a policy of not making refunds, cancellations, exchanges, or repurchases, a statement informing the customer that this is the seller's policy; or, if the seller or telemarketer makes a representation about a refund, cancellation, exchange, or repurchase policy, a statement of all material terms and conditions of such policy;

(iv) In any prize promotion, the odds of being able to receive the prize, and, if the odds are not calculable in advance, the factors used in calculating the odds; that no purchase or payment is required to win a prize or to participate in a prize promotion and that any purchase or payment will not increase the person's chances of winning; and the no purchase/no payment method of participating in the prize promotion with either instructions on how to participate or an address or local or toll-free telephone number to which customers may write or call for information on how to participate;

(v) All material costs or conditions to receive or redeem a prize that is the subject of the prize promotion;

(vi) In the sale of any goods or services represented to protect, insure, or otherwise limit a customer's liability in the event of unauthorized use of the customer's credit card, the limits on a cardholder's liability for unauthorized use of a credit card pursuant to 15 U.S.C. 1643;

(2) Misrepresenting, directly or by implication, in the sale of goods or services any of the following material information:

(i) The total costs to purchase, receive, or use, and the quantity of, any goods or services that are the subject of a sales offer;

(ii) Any material restriction, limitation, or condition to purchase, receive, or use goods or services that are the subject of a sales offer;

(iii) Any material aspect of the performance, efficacy, nature, or central characteristics of goods or services that are the subject of a sales offer;

(iv) Any material aspect of the nature or terms of the seller's refund, cancellation, exchange, or repurchase policies;

(v) Any material aspect of a prize promotion including, but not limited to, the odds of being able to receive a prize, the nature or value of a prize, or that a purchase or payment is required to win a prize or to participate in a prize promotion;

[1] When a seller or telemarketer uses, or directs a customer to use, a courier to transport payment, the seller or telemarketer must make the disclosures required by § 310.3(a)(1) before sending a courier to pick up payment or authorization for payment, or directing a customer to have a courier pick up payment or authorization for payment.

[2] For offers of consumer credit products subject to the Truth in Lending Act, 15 U.S.C. 1601 *et seq.*, and Regulation Z, 12 CFR 226, compliance with the disclosure requirements under the Truth in Lending Act, and Regulation Z, shall constitute compliance with § 310.3(a)(1)(i) of this Rule.

(vi) Any material aspect of an investment opportunity including, but not limited to, risk, liquidity, earnings potential, or profitability;

(vii) A seller's or telemarketer's affiliation with, or endorsement or sponsorship by, any person or government entity; or

(viii) That any customer needs offered goods or services to provide protections a customer already has pursuant to 15 U.S.C. 1643;

(3) Submitting billing information for payment, or collecting or attempting to collect payment for goods or services or a charitable contribution, directly or indirectly, without the customer's or donor's express verifiable authorization when the method of payment used to collect payment does not impose a limitation on the customer's or donor's liability for unauthorized charges nor provide for dispute resolution procedures pursuant to, or comparable to those available under, the Fair Credit Billing Act and the Truth in Lending Act, as amended. Such authorization shall be deemed verifiable if either of the following means are employed:

(i) Express written authorization by the customer or donor, which includes the customer's or donor's signature; [3] or

(ii) Express oral authorization which is recorded and made available upon request to the customer or donor, and the customer's or donor's bank, credit card company or other billing entity, and which evidences clearly both the customer's or donor's authorization of payment for the goods and services that are the subject of the sales offer and the customer's or donor's receipt of all of the following information:

(A) The number of debits, charges or payments;

(B) The date of the debit(s), charge(s), or payment(s);

(C) The amount of the debit(s), charge(s), or payment(s);

(D) The customer's or donor's name;

(E) The customer's or donor's specific billing information, including the name of the account and the account number, that will be used to collect payment for the goods or services that are the subject of the sales offer;

(F) A telephone number for customer or donor inquiry that is answered during normal business hours; and

(G) The date of the customer's or donor's oral authorization;

(4) Making a false or misleading statement to induce any person to pay for goods or services or to induce a charitable contribution; or

(b) *Assisting and facilitating.* It is a deceptive telemarketing act or practice and a violation of this Rule for a person to provide substantial assistance or support to any seller or telemarketer when that person knows or consciously avoids knowing that the seller or telemarketer is engaged in any act or practice that violates §§ 310.3(a) or (c), or § 310.4.

(c) *Credit card laundering.* Except as expressly permitted by the applicable credit card system, it is a deceptive telemarketing act or practice and a violation of this Rule for:

(1) A merchant to present to or deposit into, or cause another to present to or deposit into, the credit card system for payment, a credit card sales draft generated by a telemarketing transaction that is not the result of a telemarketing credit card transaction between the cardholder and the merchant;

(2) Any person to employ, solicit, or otherwise cause a merchant or an employee, representative, or agent of the merchant, to present to or deposit into the credit card system for payment, a credit card sales draft generated by a telemarketing transaction that is not the result of a telemarketing credit card transaction between the cardholder and the merchant; or

(3) Any person to obtain access to the credit card system through the use of a business relationship or an affiliation with a merchant, when such access is not authorized by the merchant agreement or the applicable credit card system.

(d) *Prohibited deceptive acts or practices in the solicitation of charitable contributions, donations, or gifts.* It is a fraudulent charitable solicitation, a deceptive telemarketing act or practice and a violation of this Rule for any telemarketer soliciting charitable contributions to misrepresent, directly or by implication, any of the following material information:

(1) The nature, purpose, or mission of any entity on behalf of which a charitable contribution is being requested;

(2) That any charitable contribution is tax deductible in whole or in part;

(3) The purpose for which any charitable contribution will be used;

(4) The percentage or amount of any charitable contribution that will go to a charitable organization or to any particular charitable program after any administrative or fundraising expenses are deducted;

(5) Any material aspect of a prize promotion including, but not limited to: The odds of being able to receive a prize; the nature or value of a prize; or that a charitable contribution is required to win a prize or to participate in a prize promotion;

(6) In connection with the sale of advertising: The purpose for which the proceeds from the sale of advertising will be used; that a purchase of advertising has been authorized or approved by any donor; that any donor owes payment for advertising; or the geographic area in which the advertising will be distributed; or

(7) A seller's or telemarketer's affiliation with, or endorsement or sponsorship by, any person or government entity.

§ 310.4 Abusive telemarketing acts or practices.

(a) *Abusive conduct generally.* It is an abusive telemarketing act or practice and a violation of this Rule for any seller or telemarketer to engage in the following conduct:

(1) Threats, intimidation, or the use of profane or obscene language;

(2) Requesting or receiving payment of any fee or consideration for goods or services represented to remove derogatory information from, or improve, a person's credit history, credit record, or credit rating until:

(i) The time frame in which the seller has represented all of the goods or services will be provided to that person has expired; and

(ii) The seller has provided the person with documentation in the form of a consumer report from a consumer reporting agency demonstrating that the promised results have been achieved, such report having been issued more than six months after the results were achieved. Nothing in this Rule should be construed to affect the requirement in the Fair Credit Reporting Act, 15 U.S.C. 1681, that a consumer report may only be obtained for a specified permissible purpose;

(3) Requesting or receiving payment of any fee or consideration from a person, for goods or services represented to recover or otherwise assist in the return of money or any other item of value paid for by, or promised to, that person in a previous telemarketing transaction, until seven (7) business days after such money or other item is delivered to that person. This provision shall not apply to goods or services provided to a person by a licensed attorney;

(4) Requesting or receiving payment of any fee or consideration in advance of obtaining a loan or other extension of credit when the seller or telemarketer has guaranteed or represented a high likelihood of success in obtaining or

[3] For purposes of this Rule, the term ''signature'' shall include a verifiable electronic or digital form of signature, to the extent that such form of signature is recognized as a valid signature under applicable federal law or state contract law.

arranging a loan or other extension of credit for a person;

(5) Receiving from any person other than the consumer or donor for use in telemarketing any consumer's or donor's billing information, or disclosing any consumer's or donor's billing information to any person for use in telemarketing; provided, however, this paragraph does not apply to the transfer of a consumer's or donor's billing information to process a payment for goods or services or a charitable contribution pursuant to a transaction in which the consumer or donor has disclosed his or her billing information and has authorized the use of such billing information to process such payment for goods or services or a charitable contribution.

(6) Blocking, circumventing, or altering the transmission of, or directing another person to block, circumvent, or alter the transmission of, the name and/or telephone number of the calling party for caller identification service purposes; provided that it shall not be a violation to substitute the actual name of the seller or charitable organization and the customer or donor service telephone number of the seller or charitable organization which is answered during regular business hours, for the phone number used in making the call.

(b) *Pattern of calls.*

(1) It is an abusive telemarketing act or practice and a violation of this Rule for a telemarketer to engage in, or for a seller to cause a telemarketer to engage in, the following conduct:

(i) Causing any telephone to ring, or engaging any person in telephone conversation, repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number;

(ii) Denying or interfering in any way, directly or through an intermediary, or directing another person to deny or interfere in any way, with a person's right to be placed on any registry of names and/or telephone numbers of persons who do not wish to receive outbound telephone calls established to comply with § 310.4(b)(1)(iii); or

(iii) Initiating any outbound telephone call to a person when that person previously has:

(A) Stated that he or she does not wish to receive an outbound telephone call made by or on behalf of the seller whose goods or services are being offered or the charitable organization on whose behalf a charitable contribution is being requested; or

(B) Placed his or her name and/or telephone number on a do-not-call registry, maintained by the Commission, of persons who do not wish to receive outbound telephone calls, unless the seller or charitable organization has obtained the express verifiable authorization of such person to place calls to that person. Such authorizations shall be deemed verifiable if either of the following means are employed:

(*1*) Express written authorization by the consumer or donor which clearly evidences his or her authorization that calls made by or on behalf of a specific seller or charitable organization may be placed to the consumer or donor, and which shall include the telephone number to which the calls may be placed and the signature of the consumer or donor; or

(*2*) Express oral authorization which is recorded and which clearly evidences the authorization of the consumer or donor that calls made by or on behalf of a specific seller or charitable organization may be placed to the consumer or donor; provided, however, that the recorded oral authorization shall only be deemed effective when the telemarketer receiving such authorization is able to verify that the authorization is being made from the telephone number to which the consumer or donor, as the case may be, is authorizing access.

(iv) Selling, purchasing or using a certified registry for any purposes except compliance with §§ 310.4(b)(1)(iii).

(2) A seller or telemarketer will not be liable for violating § 310.4(b)(1)(ii) and (iii) if it can demonstrate that, in the ordinary course of business:

(i) It has established and implemented written procedures to comply with § 310.4(b)(1)(ii) and (iii);

(ii) It has trained its personnel, and any entity assisting in its compliance, in the procedures established pursuant to § 310.4(b)(2)(i);

(iii) The seller or a telemarketer or another person acting on behalf of the seller or a charitable organization uses a process to prevent telemarketing calls from being placed to any telephone number included on the Commission's do-not-call registry, employing a version of the do-not-call registry obtained from the Commission not more than 30 days before the calls are made, and maintains records documenting this process;

(iv) The seller or a telemarketer or another person acting on behalf of the seller or charitable organization, has maintained and recorded lists of persons the seller or charitable organization may not contact, in compliance with § 310.4(b)(1)(iii)(A) and (B);

(v) The seller or a telemarketer or another person acting on behalf of the seller or charitable organization, has maintained and recorded the express verifiable authorization of those persons who have agreed to accept telemarketing calls by or on behalf of the seller or charitable organization, in compliance with § 310.4(b)(1)(iii)(B);

(vi) The seller or a telemarketer or another person acting on behalf of the seller or charitable organization, monitors and enforces compliance with the procedures established pursuant to § 310.4(b)(2)(i); and

(vii) Any subsequent call otherwise violating § 310.4(b)(1)(ii) or (iii) is the result of error.

(3) Within two years following the effective date of this Rule, the Commission shall review the implementation and operation of the registry established pursuant to § 310.4(b)(1)(iii)(B).

(c) *Calling time restrictions.* Without the prior consent of a person, it is an abusive telemarketing act or practice and a violation of this Rule for a telemarketer to engage in outbound telephone calls to a person's residence at any time other than between 8:00 a.m. and 9:00 p.m. local time at the called person's location.

(d) *Required oral disclosures in the sale of goods or services.* It is an abusive telemarketing act or practice and a violation of this Rule for a telemarketer in an outbound telephone call to induce the purchase of goods or services to fail to disclose truthfully, promptly, and in a clear and conspicuous manner to the person receiving the call, the following information:

(1) The identity of the seller;

(2) That the purpose of the call is to sell goods or services;

(3) The nature of the goods or services; and

(4) That no purchase or payment is necessary to be able to win a prize or participate in a prize promotion if a prize promotion is offered and that any purchase or payment will not increase the person's chances of winning. This disclosure must be made before or in conjunction with the description of the prize to the person called. If requested by that person, the telemarketer must disclose the no-purchase/no-payment entry method for the prize promotion.

(e) *Required oral disclosures in charitable solicitations.* It is an abusive telemarketing act or practice and a violation of this Rule for a telemarketer, in an outbound telephone call to induce a charitable contribution to fail to disclose truthfully, promptly, and in a clear and conspicuous manner to the person receiving the call, the following information:

(1) The identity of the charitable organization on behalf of which the request is being made; and

(2) That the purpose of the call is to solicit a charitable contribution;

§ 310.5 Recordkeeping requirements.

(a) Any seller or telemarketer shall keep, for a period of 24 months from the date the record is produced, the following records relating to its telemarketing activities:

(1) All substantially different advertising, brochures, telemarketing scripts, and promotional materials;

(2) The name and last known address of each prize recipient and the prize awarded for prizes that are represented, directly or by implication, to have a value of $25.00 or more;

(3) The name and last known address of each customer, the goods or services purchased, the date such goods or services were shipped or provided, and the amount paid by the customer for the goods or services; [4]

(4) The name, any fictitious name used, the last known home address and telephone number, and the job title(s) for all current and former employees directly involved in telephone sales or solicitations; provided, however, that if the seller or telemarketer permits fictitious names to be used by employees, each fictitious name must be traceable to only one specific employee; and

(5) All verifiable authorizations required to be provided or received under this Rule.

(b) A seller or telemarketer may keep the records required by § 310.5(a) in any form, and in the manner, format, or place as they keep such records in the ordinary course of business. Failure to keep all records required by § 310.5(a) shall be a violation of this Rule.

(c) The seller or the telemarketer calling on behalf of the seller or may, by written agreement, allocate responsibility between themselves for the recordkeeping required by this section. When a seller or a telemarketer have entered into such an agreement, the terms of that agreement shall govern, and the seller or telemarketer, as the case may be, need not keep records that duplicate those of the other. If the agreement is unclear as to who must maintain any required record(s), or if no such agreement exists, the seller shall be responsible for complying with §§ 310.5(a)(1)–(3) and (5); the telemarketer shall be responsible for complying with § 310.5(a)(4).

(d) In the event of any dissolution or termination of the seller's or telemarketer's business, the principal of that seller or telemarketer shall maintain all records as required under this section. In the event of any sale, assignment, or other change in ownership of the seller's or telemarketer's business, the successor business shall maintain all records required under this section.

§ 310.6 Exemptions.

The following acts or practices are exempt from this Rule:

(a) The sale of pay-per-call services subject to the Commission's ''Trade Regulation Rule Pursuant to the Telephone Disclosure and Dispute Resolution Act of 1992,'' 16 CFR Part 308, provided, however, that this exemption does not apply to the requirements of § 310.4(a)(1) and § 310.4(a)(6), (b), and (c);

(b) The sale of franchises subject to the Commission's Rule entitled ''Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures,'' 16 CFR Part 436, provided, however, that this exemption does not apply to the requirements of § 310.4(a)(1) and § 310.4(a)(6), (b), and (c);

(c) Telephone calls in which the sale of goods or services or charitable solicitation is not completed, and payment or authorization of payment is not required, until after a face-to-face sales presentation by the seller or charitable organization, provided, however, that this exemption does not apply to the requirements of § 310.4(a)(1) and § 310.4(a)(6), (b), and (c);

(d) Telephone calls initiated by a customer or donor that are not the result of any solicitation by a seller, charitable organization, or telemarketer;

(e) Telephone calls initiated by a customer or donor in response to an advertisement through any medium, other than direct mail solicitation; provided, however, that this exemption does not apply to calls initiated by a customer or donor in response to an advertisement relating to investment opportunities, business opportunities other than business arrangements covered by the Franchise Rule or any subsequent rule covering business opportunities the Commission may promulgate, or advertisements involving goods or services described in § 310.3(a)(1)(vi) or § 310.4(a)(2)–(4);

(f) Telephone calls initiated by a customer or donor in response to a direct mail solicitation, including solicitations via the U.S. Postal Service, facsimile transmission, electronic mail, and other similar methods of delivery in which a solicitation is directed to specific address(es) or person(s), that clearly, conspicuously, and truthfully disclose all material information listed in § 310.3(a)(1), for any goods or services offered in the direct mail solicitation or any requested charitable contribution; provided, however, that this exemption does not apply to calls initiated by a customer in response to a direct mail solicitation relating to prize promotions, investment opportunities, business opportunities other than business arrangements covered by the Franchise Rule or any subsequent rule covering business opportunities the Commission may promulgate, or goods or services described in §§ 310.4(a)(2)–(4); and

(g) Telephone calls between a telemarketer and any business, except calls to induce a charitable contribution, and those involving the sale of Internet services, Web services, or the retail sale of nondurable office or cleaning supplies; provided, however, that § 310.5 Rule shall not apply to sellers or telemarketers of nondurable office or cleaning supplies, Internet Services, or Web services.

§ 310.7 Actions by States and private persons.

(a) Any attorney general or other officer of a State authorized by the State to bring an action under the Telemarketing and Consumer Fraud and Abuse Prevention Act, and any private person who brings an action under that Act, shall serve written notice of its action on the Commission, if feasible, prior to its initiating an action under this rule. The notice shall be sent to the Office of the Director, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580, and shall include a copy of the State's or private person's complaint and any other pleadings to be filed with the court. If prior notice is not feasible, the State or private person shall serve the Commission with the required notice immediately upon instituting its action.

(b) Nothing contained in this section shall prohibit any attorney general or other authorized State official from proceeding in State court on the basis of an alleged violation of any civil or criminal statute of such State.

§ 310.8 Severability.

The provisions of this rule are separate and severable from one another. If any provision is stayed or determined to be invalid, it is the Commission's intention that the

[4] For offers of consumer credit products subject to the Truth in Lending Act, 15 U.S.C. 1601 *et seq.,* and Regulation Z, 12 CFR 226, compliance with the recordkeeping requirements under the Truth in Lending Act, and Regulation Z, shall constitute compliance with § 310.5(a)(3) of this Rule.

remaining provisions shall continue in effect.

By direction of the Commission.

Donald S. Clark,

Secretary.

Note: This Appendix is published for informational purposes only and will not be codified in Title 16 of the Code of Regulations.

Appendix A—List of Commenters and Acronyms, February 28, 2000: Notice and Comment; Telemarketing Sales Rule Review

Acronym/Commenter

AARP—AARP
Alan—Alan, Alicia
ARDA—American Resort Development Association
ATA—American Teleservices Association
Anderson—Anderson, Wayne
Baressi—Baressi, Sandy
Bell Atlantic—Bell Atlantic
Bennett—Bennett, Douglas H.
Biagiotti—Biagiotti, Mary
Bishop—Bishop, Lew & Lois
Blake—Blake, Ted
Bowman-Kruhm—Bowman-Kruhm, Mary
Braddick—Braddick, Jane Ann
Brass—Brass, Eric
Brosnahan—Brosnahan, Kevin
Budro—Budro, Edgar
Card—Card, Giles S.
Collison—Collison, Doug
Conn—Conn, David
Conway—Conway, Candace
Croushore—Croushore, Amanda
Curtis—Curtis, Joel
Dawson—Dawson, Darcy
DMA—Direct Marketing Association
DSA—Direct Selling Association
Doe—Doe, Jane
ERA—Electronic Retailing Association
FAMSA—FAMSA—Funeral Consumers Alliance, Inc.
Gannett—Gannett Co., Inc.
Garbin—Garbin, David and Linda
A. Gardner—Gardner, Anne
S. Gardner—Gardner, Stephen
Gibb—Gibb, Ronald E.
Gilchrist—Gilchrist, Dr. K. James
Gindin—Gindin, Jim
Haines—Haines, Charlotte
Harper—Harper, Greg
Heagy—Heagy, Annette M.
Hecht—Hecht, Jeff
Hickman—Hickman, Bill and Donna
Hollingsworth—Hollingsworth, Bob and Pat
Holloway—Holloway, Lynn S.
Holmay—Holmay, Kathleen
ICFA—International Cemetery and Funeral Association
Johnson—Johnson, Sharon Coleman
Jordan—Jordan, April
Kelly—Kelly, Lawrence M.
KTW—KTW Consulting Techniques, Inc.
Lamet—Lamet, Jerome S.
Lee—Lee, Rockie
LSAP—Legal Services Advocacy Project
LeQuang—LeQuang, Albert
Lesher—Lesher, David
Mack—Mack, Mr. and Mrs. Alfred
MPA—Magazine Publishers of America, Inc.
Manz—Manz, Matthias
McCurdy—McCurdy, Bridget E.
Menefee—Menefee, Marcie
Merritt—Merritt, Everett W.
Mey—Mey, Diana
Mitchelp—Mitchelp
NACHA—NACHA—The Electronic Payments Association
NAAG—National Association of Attorneys General
NACAA—National Association of Consumer Agency Administrators
NCL—National Consumers League
NFN—National Federation of Nonprofits
NAA—Newspaper Association of America
NASAA—North American Securities Administrators Association
Nova53—Nova53
Nurik—Nurik, Margy and Irv
PLP—Personal Legal Plans, Inc.
Peters—Peters, John and Frederickson, Constance
Reese—Reese Brothers, Inc.
Reynolds—Reynolds, Charles
Rothman—Rothman, Iris
Runnels—Runnels, Mike
Sanford—Sanford, Kanija
Schiber—Schiber, Bill
Schmied—Schmied, R. L.
Strang—Strang, Wayne G.
TeleSource—Morgan-Francis/Tele-Source Industries
Texas—Texas Attorney General
Thai—Thai, Linh Vien
Vanderburg—Vanderburg, Mary Lou
Ver Steegt—Ver Steegt, Karen
Verizon—Verizon Wireless
Warren—Warren, Joshua
Weltha—Weltha, Nick
Worsham—Worsham, Michael C., Esq.

Concurring Statement of Commissioner Orson Swindle in *Telemarketing Sales Rule Review,* File No. R411001

Telemarketing calls can provide consumers with valuable information about goods and services. On the other hand, telemarketing calls also can be deceptive or can be an unwanted intrusion into the homes of consumers—an intrusion that many consumers find difficult to prevent or remedy. The challenge for government, therefore, is to strike a balance that allows consumers, if they wish, to receive telemarketing calls with useful information without being deceived or abused.

In 1994, Congress passed the Telemarketing Consumer Fraud and Abuse Prevention Act (''Telemarketing Act''), giving the Commission the authority to promulgate rules to prohibit ''deceptive'' or ''abusive'' telemarketing practices. In 1995, the Commission issued the Telemarketing Sales Rule (''TSR''), which declared a number of telemarketing practices to be deceptive or abusive. In light of technological developments and changes in the marketplace since 1995 as well as our law enforcement experience with telemarketing fraud, the Commission now proposes to declare additional practices to be deceptive or abusive. I wholeheartedly support the proposed changes to the TSR, because they appear to strike the right balance by protecting consumers without unduly restricting the practices of legitimate telemarketers.

I want to emphasize two points concerning the Telemarketing Act and the TSR, however. The first point is that the Commission's regulatory scheme would be more effective if it covered the entire spectrum of entities engaged in telemarketing.[1] Under the Telemarketing Act and the TSR, however, the Commission lacks jurisdiction in whole or in part over the calls of entities such as banks, telephone companies, airlines, insurance companies, credit unions, charities,[2] political campaigns, and political fund raisers. In addition, the Commission also proposes to exempt from the TSR calls made on behalf of certain religious organizations.

A major objective of the Telemarketing Act and the TSR is to protect consumers' ''right to be let alone'' in their homes, which is the ''most comprehensive of rights and the right most valued by civilized men.'' *Olmstead* v. *U.S.,* 277 U.S. 438, 478 (1928) (Brandeis, J., dissenting). From the perspective of consumers, their right to be let alone is invaded just as much by an unwanted call from an exempt entity (*e.g.,* a bank or a telephone company) as it is by such a call from a covered entity (*e.g.,* a sporting goods manufacturer). The Commission's regulatory scheme would be more effective in protecting the right of consumers to be let alone if the Telemarketing Act and the TSR covered the entire spectrum of entities that make telemarketing calls to consumers.

Covering the entire spectrum of entities also would result in a more

[1] I have expressed concern in the past that the Commission's effectiveness in regualting telemarketing is significantly limited by our inability to reach the practices of entities that are exempt in whole or in part from the Telemarketing Act and the TSR. See Concurring Statement of Commissioner Orson Swindle in Miscellaneous Matters—Director (BCP), File No. P004101 (June 13, 2000) (statement issued in conjunction with Commission testimony on The Telemarketing Victims Protection Act (H.R. 3180) and The Know Your Caller Act (H.R. 3100), before the Subcommittee on Telecommunications, Trade and Consumer Protection of the Committee on Commerce, United States House of Representatives).

[2] As discussed in the Notice of Proposed Rulemaking, Congress recently enacted the USA PATRIOT Act of 2001, which gives the Commission new authority to regulate (under the Telemarketing Act and the TSR] for-profit companies that make telephone calls seeking charitable donations. I applaud Congress for taking this important step to protect consumers.

equitable regulatory scheme. For example, telephone companies currently are exempt in whole or in part from the Telemarketing Act and the TSR because they are common carriers, yet some vendors that compete with them apparently are not exempt from these regulatory requirements, *see* Notice of Proposed Rulemaking at 16, which may confer a competitive advantage in marketing on telephone companies. It would be more equitable if companies that compete with each other had to comply with the same regulatory requirements when they engage in telemarketing.

The second point that I want to raise concerns how the Commission determines whether a practice is ''abusive'' under the Telemarketing Act. For the most part, the Commission has used the examples of abusive practices that Congress provided in the Telemarketing Act and principles drawn from these examples to determine whether we can declare a practice to be abusive. I think that this is an appropriate means of determining the metes and bounds of abusive practices.

The Commission, however, also concludes that the transfer of pre-acquired account information and certain other telemarketing practices are ''abusive'' for purposes of the Telemarketing Act and the TSR, because they meet the Commission's standards for ''unfairness'' under section 5 of the FTC Act. The Commission's interjection of unfairness principles into the determination of which telemarketing practices are abusive is designed to provide greater certainty and to limit the scope of what will be considered abusive. Although these are laudable objectives, I have reservations about using unfairness principles under Section 5 to determine what is abusive for purposes of the Telemarketing Act. Nothing in the language of the Telemarketing Act or its legislative history indicates that Congress intended the Commission to use unfairness principles to determine which practices are abusive. Given that it amended the FTC Act to define unfairness the same year that it passed the Telemarketing Act, Congress presumably would have given some indication if it wanted us to employ unfairness principles to decide which telemarketing practices are abusive.[3]

Accordingly, I would ask for public comment addressing the legal, factual, and policy issues implicated by the use of unfairness principles under Section 5 of the FTC Act to determine whether telemarketing practices are abusive for purposes of the Telemarketing Act. I would also seek comment specifically addressing whether the transfer of pre-acquired account information meets the standard for unfairness under Section 5 of the FTC Act.

[FR Doc. 02–1998 Filed 1–29–02; 8:45 am]

BILLING CODE 6750–01–P

[3] In fact, when the Commission issued the TSR in 1995, it did not use unfairness principles to determine whether telemarketing practices are abusive under the Telemarketing Act. Statement of Basis and Purpose, Prohibition of Deceptive and Abusive Telemarketing Practices; Final Rule, 60 FR 43842 (Aug. 23, 1995).

Federal Register

Wednesday,
January 30, 2002

Part III

Department of Housing and Urban Development

Notice of Regulatory Waiver Requests Granted for the Third Quarter of Calendar Year 2001; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4682–N–03]

Notice of Regulatory Waiver Requests Granted for the Third Quarter of Calendar Year 2001

AGENCY: Office of the Secretary, HUD.

ACTION: Public notice of the granting of regulatory waivers from July 1, 2001, through September 30, 2001.

SUMMARY: Section 106 of the Department of Housing and Urban Development Reform Act of 1989 (the ''HUD Reform Act''), requires HUD to publish quarterly **Federal Register** notices of all regulatory waivers that HUD has approved. Each notice must cover the quarterly period since the most recent **Federal Register** notice. The purpose of this notice is to comply with the requirements of section 106 of the HUD Reform Act. This notice contains a list of regulatory waivers granted by HUD during the quarter beginning on July 1, 2001 and ending on September 30, 2001.

FOR FURTHER INFORMATION CONTACT: For general information about this notice, contact Aaron Santa Anna, Assistant General Counsel for Regulations, Room 10282, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708–3055 (this is not a toll-free number). Hearing or speech-impaired persons may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8391.

For information concerning a particular waiver action for which public notice is provided in this document, contact the person whose name and address follow the description of the waiver granted in the accompanying list of waiver-grant actions.

SUPPLEMENTARY INFORMATION: As part of the Housing and Urban Development Reform Act of 1989 (the ''HUD Reform Act''), the Congress adopted, at HUD's request, legislation to limit and control the granting of regulatory waivers by HUD. Section 106 of the HUD Reform Act added a new section 7(q) to the Department of Housing and Urban Development Act (2 U.S.C. 3535(q)), which provides that:

1. Any waiver of a regulation must be in writing and must specify the grounds for approving the waiver;

2. Authority to approve a waiver of a regulation may be delegated by the Secretary only to an individual of Assistant Secretary rank or equivalent rank, and the person to whom authority to waive is delegated must also have authority to issue the particular regulation to be waived;

3. Not less than quarterly, the Secretary must notify the public of all waivers of regulations that HUD has approved, by publishing a notice in the **Federal Register**. These notices (each covering the period since the most recent previous notification) shall:

a. Identify the project, activity, or undertaking involved;

b. Describe the nature of the provision waived, and the designation of the provision;

c. Indicate the name and title of the person who granted the waiver request;

d. Describe briefly the grounds for approval of the request;

e. State how additional information about a particular waiver grant action may be obtained.

Section 106 of the HUD Reform Act also contains requirements applicable to waivers of HUD handbook provisions that are not relevant to the purpose of this notice.

Today's document follows publication of HUD's Statement of Policy on Waiver of Regulations and Directives issued by HUD on April 22, 1991 (56 FR 16337). This notice covers HUD's waiver-grant activity from July 1, 2001 through September 30, 2001. This notice also includes a few waivers from an earlier reporting period that were inadvertently omitted from the appropriate earlier report. For ease of reference, the waivers granted by HUD are listed by HUD program office (for example, the Office of Community Planning and Development, the Office of Housing, the Office of Public and Indian Housing, etc.). Within each program office grouping, the waivers are listed sequentially by the section of title 24 being waived. For example, a waiver-grant action involving the waiver of a provision in 24 CFR part 58 would come before a waiver of a provision in 24 CFR part 570.

Where more than one regulatory provision is involved in the grant of a particular waiver request, the action is listed under the section number of the first regulatory requirement in title 24 that is being waived as part of the waiver-grant action. For example, a waiver of both § 58.73 and § 58.74 would appear sequentially in the listing under § 58.73.

Waiver-grant actions involving the same initial regulatory citation are in time sequence beginning with the earliest-dated waiver grant action.

Should HUD receive additional reports of waiver actions taken during the period covered by this report before the next report is published, the next updated report will include these earlier actions, as well as those that occurred between October 1, 2001 through December 31, 2001.

Accordingly, information about approved waiver requests pertaining to HUD regulations is provided in the Appendix that follows this notice.

Dated: January 22, 2002.

Alphonso Jackson,

Deputy Secretary.

Appendix

Listing of Waivers of Regulatory Requirements Granted by Offices of the Department of Housing and Urban Development July 1, 2001 through September 30, 2001

Note to Reader: More information about the granting of these waivers, including a copy of the waiver request and approval, may be obtained by contacting the person whose name is listed as the contact person directly after each set of waivers granted.

The regulatory waivers granted appear in the following order:

I. Regulatory waivers granted by the Office of Community Planning and Development.
II. Regulatory waivers granted by the Office of Housing.
III. Regulatory waivers granted by the Office of Multifamily Housing Assistance Restructuring.
IV. Regulatory waivers granted by the Office of Public and Indian Housing.

I. Regulatory Waivers Granted by the Office of Community Planning and Development

For further information about the following waiver actions, please see the name of the contact person who immediately follows the description of the waiver granted.

• *Regulation:* 24 CFR 5.110.

Project/Activity: Harris County, Texas requested that certain provisions of Section 290 of the Cranston-Gonzalez National Affordable Housing Act of 1990, as amended, be waived pursuant to 24 CFR 5.110 to allow the county to assist victims of Tropical Storm Allison.

Nature of Requirement: 24 CFR 5.110 allows the Department to waive any provision of the Cranston-Gonzalez National Affordable Housing Act of 1990, as amended, upon determination of good cause.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: August 13, 2001.

Reasons Waived: The Department determined that there was good cause for granting the waivers. These provisions should be waived to facilitate the County's efforts to assist victims of Tropical Storm Allison.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–2565, extension 4556.

• *Regulations:* 24 CFR 91.105(c); Section 220 (Act); 24 CFR 92.218(a); 24 CFR

92.219(a); 24 CFR 92.220(a); 24 CFR 92.221; 24 CFR 92.222(b); Section 212(e) (Act); 24 CFR 92.250; Section 203(b) (Act); 24 CFR 92.245(a)(iii); Section 231 (Act); 24 CFR 92.300(a)(1); and 24 CFR 92.353.

Project/Activity: Harris County, Texas requested a waiver of several laws and regulations in connection with the provision of HOME funds to address housing damage in an area covered by a Presidential declaration of major disaster.

Nature of Requirement: Relief was sought from the following requirements: 24 CFR 91.105(c)—Citizen Participation Plan requirement to provide not less than 30 days for citizen comment to changes to the Consolidated Plan; Section 220 (NAHA) and 24 CFR 92.218(a)—Amount of matching contribution; 24 CFR 92.219(a)—Recognition of matching contribution; 92.220(a)—Form of matching contribution; 24 CFR 92.221—Match credit; 92.222(b)—Reduction of matching contribution requirement; Section 212(e) (NAHA) and 24 CFR 92.250—Maximum per-unit subsidy; Section 203(b) (NAHA) and 24 CFR 92.245(a)(iii)—Maximum purchase price; Section 231 (NAHA) and 24 CFR 92.300(a)(1)—Set-aside for community housing development organizations; and 24 CFR 92.353—Displacement, relocation, and acquisition.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: August 13, 2001.

Reasons Waived: 24 CFR 5.110 and Section 290 of the Cranston-Gonzalez National Affordable Housing Act of 1990 respectively provide the Department the authority to waive regulatory provisions and suspend statutory requirements. Due to the severity of the storm damage from Tropical Storm Allison, the Department determined there was good cause to waive the above statutes and regulations.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Planning and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–2565, extension 4556.

• *Regulations:* 24 CFR 91.520(a).

Project/Activity: The city of Tulare, California requested a waiver of the submission deadline for the city's 2000 program year CAPER.

Nature of Requirement: The regulation at 24 CFR 91.520(a) requires each grantee to submit a performance report to HUD within 90 days after the close of the grantee's program year.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: August 13, 2001.

Reasons Waived: The regulations at 24 CFR 91.600 provide that ''upon determination of good cause, HUD may, subject to statutory limitations, waive any provision of this part'' of the regulations. The city requested an extension due to staffing shortages and the heavy workload in the city's Finance Department. The city needs additional time to generate the financial data for its CAPER. While the Department wants grantees to submit CAPER reports in a timely manner, the Department determined that there was good cause for granting this waiver since the staffing concerns would prevent the city from submitting an accurate and complete report. The city received an extension to October 31, 2001 to submit its 2000 CAPER to HUD.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–2565, extension 4556.

• *Regulations:* 24 CFR 91.520(a).

Project/Activity: The city of Trenton, New Jersey requested a waiver of the submission deadline for the city's 2000 program year CAPER.

Nature of Requirement: The regulation at 24 CFR 91.520(a) requires each grantee to submit a performance report to HUD within 90 days after the close of the grantee's program year.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: August 22, 2001.

Reasons Waived: The regulations at 24 CFR 91.600 provide that ''upon determination of good cause, HUD may, subject to statutory limitations, waive any provision of this part'' of the regulations. The city requested an extension due to staff changes in the Department of Housing and Economic Development. The city indicated that the additional time would allow for a thorough evaluation of its accomplishments and time for the thirty (30) day comment period. While the Department wants grantees to submit CAPER reports in a timely manner, the Department determined that there was good cause for granting this waiver since additional time would allow for comments and result in a more accurate report. The city received an extension to October 1, 2001 to submit its 2000 CAPER to HUD.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–2565, extension 4556.

• *Regulations:* 24 CFR 91.520(a).

Project/Activity: The city of New Britain, Connecticut requested a waiver of the submission deadline for the city's 2000 program year CAPER.

Nature of Requirement: The regulation at 24 CFR 91.520(a) requires each grantee to submit a performance report to HUD within 90 days after the close of the grantee's program year.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: September 5, 2001.

Reasons Waived: The regulations at 24 CFR 91.600 provide that ''upon determination of good cause, HUD may, subject to statutory limitations, waive any provision of this part'' of the regulations. The city requested an extension due to medical absence of the Grants Administrator from August to mid-September. This individual is responsible for the completion of New Britain's CAPER. While the Department wants grantees to submit CAPER reports in a timely manner, the Department determined that there was good cause for granting this waiver due to the circumstances described in the request. The city received an extension to October 31, 2001 to submit its 2000 CAPER to HUD.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–2565, extension 4556.

• *Regulations:* 24 CFR 91.520(a).

Project/Activity: The County of Baltimore, Maryland requested a waiver of the submission deadline for the county's 2000 program year CAPER.

Nature of Requirement: The regulation at 24 CFR 91.520(a) requires each grantee to submit a performance report to HUD within 90 days after the close of the grantee's program year.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: September 20, 2001.

Reasons Waived: The regulations at 24 CFR 91.600 provide that ''upon determination of good cause, HUD may, subject to statutory limitations, waive any provision of this part'' of the regulations. The County's Office of Community Conservation, which administers the CDBG program, will not be able to submit a complete CAPER report until Baltimore County closes out its fiscal year at the end of September. While the Department wants grantees to submit CAPER reports in a timely manner, the Department determined that there was good cause for granting this waiver because of the delay in the county's fiscal year closeout procedures. The county received an extension to November 30, 2001 to submit its 2000 CAPER to HUD.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–2565, extension 4556.

• *Regulations:* 24 CFR 91.520(a).

Project/Activity: The city of Baltimore, Maryland requested a waiver of the submission deadline for the city's 2000 program year CAPER.

Nature of Requirement: The regulation at 24 CFR 91.520(a) requires each grantee to submit a performance report to HUD within 90 days after the close of the grantee's program year.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: September 20, 2001.

Reasons Waived: The regulations at 24 CFR 91.600 provide that ''upon determination of good cause, HUD may, subject to statutory limitations, waive any provision of this part'' of the regulations. The city requested an extension due to organizational and personnel changes. Additionally, the city of Baltimore does not release financial records until the middle of August and it takes an additional month for review of these records. While the Department wants grantees to submit CAPER reports in a timely manner, the Department determined that there was good cause for granting this waiver due to the

circumstances described in the city's request. The city received an extension to December 3, 2001 to submit its 2000 CAPER to HUD.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–2565, extension 4556.

• *Regulations:* 24 CFR 91.520(a).

Project/Activity: The County of Hudson, New Jersey requested a waiver of the submission deadline for the county's 2000 program year CAPER.

Nature of Requirement: The regulation at 24 CFR 91.520(a) requires each grantee to submit a performance report to HUD within 90 days after the close of the grantee's program year.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: September 24, 2001.

Reasons Waived: The regulations at 24 CFR 91.600 provide that ''upon determination of good cause, HUD may, subject to statutory limitations, waive any provision of this part'' of the regulations. The county requested an extension due to the fact that the Chief of the County Division resigned and this individual was responsible for preparing the CAPER. While the Department wants grantees to submit CAPER reports in a timely manner, the Department determined that there was good cause for granting this waiver due to the staffing concerns. The county received an extension to November 27, 2001 to submit its 2000 CAPER to HUD.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–2565, extension 4556.

• *Regulations:* 24 CFR 91.520(a).

Project/Activity: Cherry Hill Township, New Jersey requested a waiver of the submission deadline for the township's 2000 program year CAPER.

Nature of Requirement: The regulation at 24 CFR 91.520(a) requires each grantee to submit a performance report to HUD within 90 days after the close of the grantee's program year.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: September 24, 2001.

Reasons Waived: The regulations at 24 CFR 91.600 provide that ''upon determination of good cause, HUD may, subject to statutory limitations, waive any provision of this part'' of the regulations. The township requested an extension due to staffing changes within the Department of Community Development. This Department has responsibility for preparing the CAPER. The township needs additional time to evaluate its accomplishments and allow for public comment. While the Department wants grantees to submit CAPER reports in a timely manner, the Department determined that there was good cause for granting this waiver since the staffing concerns would prevent the city from submitting an accurate and complete report and meet the other requirement. The township received an extension to October 31, 2001 to submit its 2000 CAPER to HUD.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–2565, extension 4556.

• *Regulations:* 24 CFR 91.520(a).

Project/Activity: The city of Lawton, Oklahoma requested a waiver of the submission deadline for the city's 2000 program year CAPER.

Nature of Requirement: The regulation at 24 CFR 91.520(a) requires each grantee to submit a performance report to HUD within 90 days after the close of the grantee's program year.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: September 24, 2001.

Reasons Waived: The regulations at 24 CFR 91.600 provide that ''upon determination of good cause, HUD may, subject to statutory limitations, waive any provision of this part'' of the regulations. The city requested an extension because the office had to relocate due to the presence of mold. The office did not have access to its file and was forced to work out of temporary office space. While the Department wants grantees to submit CAPER reports in a timely manner, the Department determined that there was good cause for granting this waiver due to the office relocation as documented. The city received an extension to December 30, 2001 to submit its 2000 CAPER to HUD.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–2565, extension 4556.

• *Regulations:* 24 CFR 91.520(a).

Project/Activity: The city of Philadelphia, Pennsylvania requested a waiver of the submission deadline for the city's 2000 program year CAPER.

Nature of Requirement: The regulation at 24 CFR 91.520(a) requires each grantee to submit a performance report to HUD within 90 days after the close of the grantee's program year.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: September 24, 2001.

Reasons Waived: The regulations at 24 CFR 91.600 provide that ''upon determination of good cause, HUD may, subject to statutory limitations, waive any provision of this part'' of the regulations. The city needs additional time to obtain the financial data for its CAPER. While the Department wants grantees to submit CAPER reports in a timely manner, the Department determined that there was good cause for granting this waiver based on the city's documentation of failure to obtain the necessary information. The city received an extension to November 1, 2001 to submit its 2000 CAPER to HUD.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708–2565, extension 4556.

• *Regulation:* 24 CFR 91.520(a).

Project/Activity: Harford County, Maryland requested a waiver of the submission deadline for the county's 2000 program year CAPER.

Nature of Requirement: The regulation at 24 CFR 91.520(a) requires each grantee to submit a performance report to HUD within 90 days after the close of the grantee's program year.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: September 25, 2001.

Reasons Waived: The regulations at 24 CFR 91.600 provide that ''upon determination of good cause, HUD may, subject to statutory limitations, waive any provision of this part'' of the regulations. The county requested an extension because the community development staff is responding to outstanding monitoring findings related to data required for the CAPER. The county is making progress in correcting data entered into HUD's Integrated Disbursement and Information System (IDIS). The IDIS information is used to compile CAPER data. Due to these responsibilities, the county will be unable to meet the deadline date. While the Department wants grantees to submit CAPER reports in a timely manner, the Department determined that there was good cause for granting this waiver to ensure an accurate report. The county received an extension to October 26, 2001 to submit its 2000 CAPER to HUD.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708–2565, extension 4556.

• *Regulations:* 24 CFR 91.520(a).

Project/Activity: Anoka County, Minnesota requested a waiver of the submission deadline for the county's 2000 program year CAPER.

Nature of Requirement: The regulation at 24 CFR 91.520(a) requires each grantee to submit a performance report to HUD within 90 days after the close of the grantee's program year.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: September 25, 2001.

Reasons Waived: The regulations at 24 CFR 91.600 provide that ''upon determination of good cause, HUD may, subject to statutory limitations, waive any provision of this part'' of the regulations. The county requested an extension due to staffing shortages. The county lost three staff members during the past year. Due to the staff turnover and the fact that the new manager only recently came on board, additional time is needed to complete preparation of the county's CAPER. While the Department wants grantees to submit CAPER reports in a timely manner, the Department determined that there was good cause for granting this waiver due to staffing concerns. The county received an extension to October 31, 2001 to submit its 2000 CAPER to HUD.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708–2565, extension 4556.

• *Regulations:* 24 CFR 91.520(a).

Project/Activity: The city of Virginia Beach, Virginia requested a waiver of the submission deadline for the city's 2000 program year CAPER.

Nature of Requirement: The regulation at 24 CFR 91.520(a) requires each grantee to submit a performance report to HUD within 90 days after the close of the grantee's program year.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: September 25, 2001.

Reasons Waived: The regulations at 24 CFR 91.600 provide that ''upon determination of good cause, HUD may, subject to statutory limitations, waive any provision of this part'' of the regulations. The city requested an extension due to technical difficulties with the Integrated Disbursement and Information System (IDIS) and the delayed receipt of information from two service providers. While the Department wants grantees to submit CAPER reports in a timely manner, the Department determined that there was good cause for granting this waiver due to the circumstances described in the request. The city received an extension to October 19, 2001 to submit its 2000 CAPER to HUD.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708–2565, extension 4556.

• *Regulation:* 24 CFR 91.520(a).

Project/Activity: The city of Suffolk, Virginia requested a waiver of the submission deadline for the city's 2000 program year CAPER.

Nature of Requirement: The regulation at 24 CFR 91.520(a) requires each grantee to submit a performance report to HUD within 90 days after the close of the grantee's program year.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: September 25, 2001.

Reasons Waived: The regulations at 24 CFR 91.600 provide that ''upon determination of good cause, HUD may, subject to statutory limitations, waive any provision of this part'' of the regulations. The city requested an extension due to city's need to clean up information in its Integrated Disbursement and Information System (IDIS). While the Department wants grantees to submit CAPER reports in a timely manner, the Department determined that there was good cause for granting this waiver due to the need for IDIS clean up. The city received an extension to October 29, 2001 to submit its 2000 CAPER to HUD.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708–2565, extension 4556.

• *Regulation:* 24 CFR 91.520(a).

Project/Activity: The state of Vermont requested a waiver of the submission deadline for the state's 2000 program year CAPER.

Nature of Requirement: The regulation at 24 CFR 91.520(a) requires each grantee to submit a performance report to HUD within 90 days after the close of the grantee's program year.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: September 25, 2001.

Reasons Waived: The regulations at 24 CFR 91.600 provide that ''upon determination of good cause, HUD may, subject to statutory limitations, waive any provision of this part'' of the regulations. The state requested an extension due to staffing shortages caused by budget restraints and a redesign of the program that has resulted in increased workload for existing staff. While the Department wants grantees to submit CAPER reports in a timely manner, the Department determined that there was good cause for granting this waiver due to the staffing concerns. The state received an extension to November 30, 2001 to submit its 2000 CAPER to HUD.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–2565, extension 4556.

• *Regulations:* 24 CFR 91.520(a).

Project/Activity: The city of West Covina, California requested a waiver of the submission deadline for the city's 2000 program year CAPER.

Nature of Requirement: The regulation at 24 CFR 91.520(a) requires each grantee to submit a performance report to HUD within 90 days after the close of the grantee's program year.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: September 26, 2001.

Reasons Waived: The regulations at 24 CFR 91.600 provide that ''upon determination of good cause, HUD may, subject to statutory limitations, waive any provision of this part'' of the regulations. The city requested an extension due to adjustment and alignment of city staff. The city determined that it would be prudent to hire a consultant to produce the city's CAPER. While the Department wants grantees to submit CAPER reports in a timely manner, the Department determined that there was good cause for granting this waiver because of the time necessary to hire and acclimate the consultant staff. The city received an extension to October 29, 2001 to submit its 2000 CAPER to HUD.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–2565, extension 4556.

• *Regulations:* 24 CFR 91.520(a).

Project/Activity: The city of Bristol, Virginia requested a waiver of the submission deadline for the city's 2000 program year CAPER.

Nature of Requirement: The regulation at 24 CFR 91.520(a) requires each grantee to submit a performance report to HUD within 90 days after the close of the grantee's program year.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: September 26, 2001.

Reasons Waived: The regulations at 24 CFR 91.600 provide that ''upon determination of good cause, HUD may, subject to statutory limitations, waive any provision of this part'' of the regulations. The city requested an extension to allow the city clerk to complete its 1999 program year fiscal closeout procedures before reconciling expenditures for the 2000 program year. The city needs additional time to generate the financial data for its CAPER. While the Department wants grantees to submit CAPER reports in a timely manner, the Department determined that there was good cause for granting this waiver. The City received an extension to October 29, 2001 to submit its 2000 CAPER to HUD.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–2565, extension 4556.

• *Regulations:* 24 CFR 91.520(a).

Project/Activity: The city of Portsmouth, Virginia requested a waiver of the submission deadline for the city's 2000 program year CAPER.

Nature of Requirement: The regulation at 24 CFR 91.520(a) requires each grantee to submit a performance report to HUD within 90 days after the close of the grantee's program year.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: September 26, 2001.

Reasons Waived: The regulations at 24 CFR 91.600 provide that ''upon determination of good cause, HUD may, subject to statutory limitations, waive any provision of this part'' of the regulations. The city requested an extension because the city's new community development staff is not familiar with the CAPER development process. While the Department wants grantees to submit CAPER reports in a timely manner, the Department determined that there was good cause for granting this waiver in view of the new CPD staff. The city received an extension to November 16, 2001 to submit its 2000 CAPER to HUD.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–2565, extension 4556.

• *Regulation:* 24 CFR 91.520(a).

Project/Activity: The city of Portland/Portland Consortium, Oregon requested a waiver of the submission deadline for the city's 2000 program year CAPER.

Nature of Requirement: The regulation at 24 CFR 91.520(a) requires each grantee to submit a performance report to HUD within

90 days after the close of the grantee's program year.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: September 26, 2001.

Reasons Waived: The regulations at 24 CFR 91.600 provide that ''upon determination of good cause, HUD may, subject to statutory limitations, waive any provision of this part'' of the regulations. The city requested an extension in order to ensure the accuracy of data reported from sub recipients. In addition, the consortium has encountered technical difficulties in producing the narrative portion of its CAPER. While the Department wants grantees to submit CAPER reports in a timely manner, the Department determined that there was good cause for granting this waiver to allow the consortium time to verify data and complete the narrative section. The Portland Consortium received an extension to October 31, 2001 to submit its 2000 CAPER to HUD.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–2565, extension 4556.

• *Regulations:* 24 CFR 91.520(a).

Project/Activity: The city of Alexandria, Virginia requested a waiver of the submission deadline for the city's 2000 program year CAPER.

Nature of Requirement: The regulation at 24 CFR 91.520(a) requires each grantee to submit a performance report to HUD within 90 days after the close of the grantee's program year.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: September 26, 2001.

Reasons Waived: The regulations at 24 CFR 91.600 provide that ''upon determination of good cause, HUD may, subject to statutory limitations, waive any provision of this part'' of the regulations. The city requested an extension due to lack of permanent fiscal staff that which delayed the completion of the financial reporting requirements for the CAPER and the public comment requirement. While the Department wants grantees to submit CAPER reports in a timely manner, the Department determined that there was good cause for granting this waiver due to staffing concerns. The city received an extension to October 31, 2001 to submit its 2000 CAPER to HUD.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–2565, extension 4556.

• *Regulation:* 24 CFR 91.520(a).

Project/Activity: The city of Urbana, Illinois requested a waiver of the submission deadline for the city's 2000 program year CAPER.

Nature of Requirement: The regulation at 24 CFR 91.520(a) requires each grantee to submit a performance report to HUD within 90 days after the close of the grantee's program year.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: September 26, 2001.

Reasons Waived: The regulations at 24 CFR 91.600 provide that ''upon determination of good cause, HUD may, subject to statutory limitations, waive any provision of this part'' of the regulations. The city requested an extension to allow additional budget and policy analysis necessary to address concerns regarding the city's expenditure under the CDBG public service cap. While the Department wants grantees to submit CAPER reports in a timely manner, the Department determined that there was good cause for granting this waiver to ensure an accurate report. The city received an extension to October 31, 2001 to submit its 2000 CAPER to HUD.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–2565, extension 4556.

• *Regulation:* 24 CFR 91.520(a).

Project/Activity: The city of Lowell, Massachusetts requested a waiver of the submission deadline for the city's 2000 program year CAPER.

Nature of Requirement: The regulation at 24 CFR 91.520(a) requires each grantee to submit a performance report to HUD within 90 days after the close of the grantee's program year.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: September 27, 2001.

Reasons Waived: The regulations at 24 CFR 91.600 provide that ''upon determination of good cause, HUD may, subject to statutory limitations, waive any provision of this part'' of the regulations. The city requested an extension to ensure completion of the city's Integrated Disbursement and Information System (IDIS) data review, update, and reconciliation process. In addition, the city anticipates possible shifts in staff priorities in order to address Consolidated Plan issues. While the Department wants grantees to submit CAPER reports in a timely manner, the Department determined that there was good cause for granting this waiver due to staff priorities and IDIS review, update, and reconciliation. The city received an extension to October 19, 2001 to submit its 2000 CAPER to HUD.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–2565, extension 4556.

• *Regulation:* 24 CFR 91.520(a).

Project/Activity: The city of Nashua, New Hampshire requested a waiver of the submission deadline for the city's 2000 program year CAPER.

Nature of Requirement: The regulation at 24 CFR 91.520(a) requires each grantee to submit a performance report to HUD within 90 days after the close of the grantee's program year.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: September 27, 2001.

Reasons Waived: The regulations at 24 CFR 91.600 provide that ''upon determination of good cause, HUD may, subject to statutory limitations, waive any provision of this part'' of the regulations. The city requested an extension because audited financial figures required for the reporting year will not be available until the middle of October. While the Department wants grantees to submit CAPER reports in a timely manner, the Department determined that there was good cause for granting this waiver to allow time for the audited financial data. The city received an extension to October 30, 2001 to submit its 2000 CAPER to HUD.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–2565, extension 4556.

• *Regulation:* 24 CFR 91.520(a).

Project/Activity: The city of Simi Valley, California requested a waiver of the submission deadline for the city's 2000 program year CAPER.

Nature of Requirement: The regulation at 24 CFR 91.520(a) requires each grantee to submit a performance report to HUD within 90 days after the close of the grantee's program year.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: September 28, 2001.

Reasons Waived: The regulations at 24 CFR 91.600 provide that ''upon determination of good cause, HUD may, subject to statutory limitations, waive any provision of this part'' of the regulations. The city requested an extension due to technical difficulties with the city's Integrated Disbursement and Information System (IDIS). While the Department wants grantees to submit CAPER reports in a timely manner, the Department determined that there was good cause for granting this waiver in order to allow time for the corrections to the IDIS to ensure an accurate and complete report. The city received an extension to October 23, 2001 to submit its 2000 CAPER to HUD.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–2565, extension 4556.

• *Regulation:* 24 CFR 91.520(a).

Project/Activity: The State of Alaska requested a waiver of the submission deadline for the state's 2000 program year CAPER.

Nature of Requirement: The regulation at 24 CFR 91.520(a) requires each grantee to submit a performance report to HUD within 90 days after the close of the grantee's program year.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: September 26, 2001.

Reasons Waived: The regulations at 24 CFR 91.600 provide that ''upon determination of

good cause, HUD may, subject to statutory limitations, waive any provision of this part'' of the regulations. The state requested an extension due to a family emergency of a key staff person who is responsible for preparing the CAPER. While the Department wants grantees to submit CAPER reports in a timely manner, the Department determined that there was good cause for granting this waiver due to the staffing problem and the need to allow sufficient time for public comment. The state received an extension to October 30, 2001 to submit its 2000 CAPER to HUD.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–2565, extension 4556.

• *Regulation:* 24 CFR 91.520(a).

Project/Activity: The Commonwealth of Virginia requested a waiver of the submission deadline for the state's 2000 program year CAPER.

Nature of Requirement: The regulation at 24 CFR 91.520(a) requires each grantee to submit a performance report to HUD within 90 days after the close of the grantee's program year.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: October 1, 2001.

Reasons Waived: The regulations at 24 CFR 91.600 provide that ''upon determination of good cause, HUD may, subject to statutory limitations, waive any provision of this part'' of the regulations. The city requested an extension due to personnel changes in the Virginia Housing Division. The state also needs time to develop information from the state and the Integrated Disbursement and Information System (IDIS) reporting formats. While the Department wants grantees to submit CAPER reports in a timely manner, the Department determined that there was good cause for granting this waiver. The state received an extension to October 26, 2001 to submit its 2000 CAPER to HUD.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–2565, extension 4556.

• *Regulation:* 24 CFR 92.251.

Project/Activity: The State of North Dakota requested a waiver of the requirement that HOME-assisted housing in certain counties and Indian Reservations covered under a Presidential Declaration of major disaster meet the applicable codes and property.

Nature of the Requirement: 24 CFR 92.251 requires all HOME-assisted housing to meet the acceptable codes, standards and ordinances, and zoning ordinances at the time of project completion to ensure that HOME-assisted housing is decent, safe, and sanitary.

Granted By: Donna Abbenante, Acting General Deputy Assistant Secretary for Community Planning and Development.

Date Granted: July 13, 2001.

Reasons Waived: Section 290 of the Cranston-Gonzalez National Affordable Housing Act allows a suspension of certain statutory requirements to facilitate emergency repairs on damaged housing within a Presidentially-declared Major Disaster Area to alleviate the hardship placed on the families affected by the disaster.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Planning and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–2565, extension 4556.

• *Regulation:* 24 CFR 92.214(a)(7).

Project/Activity: The city of Warren, Ohio requested a waiver of the provision that prohibit additional HOME assistance to a project previously assisted with HOME funds during the period of affordability.

Nature of Requirement: 24 CFR 92.214(a)(7) prohibit additional HOME assistance to a project previously assisted with HOME funds during the period of affordability.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: July 26, 2001.

Reasons Waived: 24 CFR 5.110 allows the Department to waive provisions of the HOME rule upon determination of good cause. The city recommended that additional HOME funds would be used to address the lead-based paint (LBP) issues in 35 homes by painting the homes rather than installing more costly vinyl siding in order to maximize the use of scare resources for the project.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–2565, extension 4556.

• *Regulation:* 24 CFR 583.115(2).

Project/Activity: Dade County, Florida Homeless Trust requested a waiver of the Supportive Housing Program rule that rents paid with funds for individuals must not exceed HUD-determined fair market rents.

Nature of Requirement: 24 CFR 583.115(2) prohibits grantees from using Supportive Housing Program funds to pay for rents that exceed HUD-determined fair market rents.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: September 17, 2001.

Reasons Waived: HUD determined that there is good cause to grant the waiver. Due to the increase in rents in the Miami Beach, it is difficult to find any units at or below the HUD-determined Fair Market Rent (FMR). Approving this waiver will avoid the displacement of clients from a familiar community and assist in their move to self-sufficiency through the enhancement of supportive services.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC telephone (202) 708–2565, extension 4556.

II. Regulatory Waivers Granted by the Office of Housing

For further information about the following waiver actions, please see the name of the contact person who immediately follows the description of the waiver granted.

• *Regulation:* 1998 National SuperNOFA, Housing Counseling Training Program, 63 Federal Register 23977 (NOFA).

Project/Activity: A grantee under the NOFA requested a waiver of the NOFA prohibition on reimbursing counselors for the travel and hotel costs they incur when attending grantee's training sessions.

Nature of Requirement: The program requirements section of the NOFA explicitly prohibits grantees from reimbursing participating counselors for the travel, hotel, and food costs associated with their attendance at grantee's training.

Granted By: Sean G. Cassidy, General Deputy Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: July 31, 2001.

Reason Waived: The low turnout of counselors for grantee's training has been attributed to the inability of counselors and their counseling agencies to obtain sufficient funds to cover the travel and hotel costs incurred when attending the training. As a consequence of the inability of counselors to attend the training provided by grantee, the quality of counseling provided to renters and homeowners may suffer. HUD created the grants program for training because it determined that there was a nationwide need for training. HUD believes that the need for training continues to exist today. Therefore, a limited waiver of the prohibition on using grant funds to reimburse for travel and hotel costs is in the public interest and consistent with the programmatic objectives, under the statutory authority for the grants program, of helping to improve the quality of housing counseling available to renters and homeowners.

Contact: Jo Anne B. Edwards, Housing Program/Policy Specialist, Office of Single Family Program Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–0614, extension 2320.

• *Regulation:* 24 CFR 219.

Project/Activity: Allen Temple Apartments, FHA Project Numbers: 061–55007, 061–55016, and 061–55024. The Atlanta Multifamily Hub has requested a waiver of the Flexible Subsidy financing in place following the FHA-insured refinancing/rehabilitation of the subject properties.

Nature of Requirement: Regulations at 24 at CFR 219 governs the repayment of assistance provided under the Flexible Subsidy Program for Troubled Projects prior to May 1, 1996. It requires the repayment of the flexible subsidy loan at time of prepayment.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: August 1, 2001.

Reason Waived: The Assistant Secretary has approved this waiver because good cause has been shown that it is in the public's best interest to grant this waiver. Providing for a waiver of the repayment of the flexible subsidy loans will allow the owner to prepay the existing mortgages, obtain one new FHA-insured mortgage to perform substantial rehabilitation of the properties and allow the

flexible subsidy loan to remain as a soft second mortgage. If the waiver was not granted, the owner would not have the available funds to repay the flexible subsidy loan nor obtain the FHA-insured financing of the new mortgage, thereby losing the opportunity to improve this much needed housing for low income citizens of Atlanta, Georgia.

Contact: Marc A. Harris, Director, Field Asset Management Division, Office of Asset Management, Room 6160, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–0614 extension 2680.

• *Regulation:* 24 CFR 234.26(e)(3) and 24 CFR Part 234.26(i)(1)(iii).

Project/Activity: McLean Hills Condominium, McLean, Virginia.

Nature of Requirement: Title 24 of the Code of Federal Regulations, Part 234.26(e)(3) requires that in order for a condominium unit to be eligible for FHA mortgage insurance, at least 51% of all family units in the condominium project must be occupied by the owners as a principal residence or a secondary residence sold to owners who intend to meet this occupancy requirement. 24 CFR 234.26(i)(l)(iii) provides that no single entity (the same individual, investor group, partnership or corporation) may own more than 10 percent of the total number of units in a unapproved condominium project where FHA insurance is sought on a unit under HUD's condominium spot loan activities.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: July 11, 2001.

Reason Waived: Forty three percent of the units were owner occupied. Seventeen percent of the units were owned by the Fairfax County Redevelopment and Housing Authority. These units were rented under the county's moderate income rental program as part of its mission to develop and preserve affordable housing for low and moderate income households. Granting the waiver assisted HUD in attaining its objectives of promoting affordable housing for low- and moderate-income families and generally expanding homeownership opportunities.

Contact: Maynard T. Curry, Office of Single Family Program Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–2121.

• *Regulation:* 24 CFR 291.210(a).

Project/Activity: Teacher Next Door (TND) Initiative.

Nature of Requirement: Extension of sales under the Department's TND Initiative through March 1, 2002.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: August 2, 2001.

Reason Waived: To permit the continued sales of FHA insurable and uninsurable properties in designated revitalization areas to qualified teachers on a direct sales basis.

Contact: Dennis White, Housing Program Officer, Office of Single Family Asset Management, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202)-708–0614, extension 2306.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: The Palmer House, City of Wilkes-Barre, Luzerne County, Pennsylvania, Project Number: 034–EE091/PA26–S981–012.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: July 5, 2001.

Reason Waived: The project was economically designed, comparable in cost to similar projects; and with the loss of expected gap financing, the Sponsor could not contribute any additional funds.

Contact: Monique Love, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–0614 extension 2475.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Access House I, Parsippany, New Jersey, Project Number: 031–HD078/NJ39–Q971–001.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: July 5, 2001.

Reason Waived: The project was modest in design, comparable to similar projects in the area, the Owner had secured $143,000 in HOME funds and $20,000 from the Church of the Savior, and the Sponsor had exhausted all means of obtaining the additional funds.

Contact: Faye Norman, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–0614 extension 2482.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Adda and Paul Safran Senior Housing, Los Angeles, California, Project Number: 122–EE127/CA16–S971–012.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: July 5, 2001.

Reason Waived: Land and construction costs in the Los Angeles are very high, the Sponsor received a commitment of funds in the amount of $3,662,000 from the City of Los Angeles' Housing Department and the Sponsor had exhausted all means of obtaining the additional funds.

Contact: Rita Ross, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–0614 extension 2696.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: St. Boniface Gardens, Pembroke Pines, Broward County, Florida, Project Number: 066–EE074/FL29–S991–006.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: July 20, 2001.

Reason Waived: Site development and construction costs have increased significantly. Broward County has agreed to waive a portion of the impact fees; and the Sponsor is contributing $300,000 and has exhausted all efforts to obtain the additional funds from other sources.

Contact: Rita Ross, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone: (202) 708–0614 extension 2696.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: The Benjamin Rush House, Jasper, Indiana, Project Number: 073–HD052.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: August 1, 2001.

Reason Waived: The project was economically designed, comparable to other similar projects developed in the jurisdiction and all efforts to lower the cost of the project had been exhausted.

Contact: Dianna Plaugher, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone: (202) 708–0614 extension 6791.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Moreno Valley Senior Housing, Moreno Valley, California, Project Number: 143–EE037/CA43–S001–001.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: August 1, 2001.

Reason Waived: The project was economically designed and comparable to other projects in the area, and the Sponsor had exhausted all efforts to find additional funds.

Contact: Frank Tolliver, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–0614 extension 3821.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: New Generation Apartments, Omaha, Nebraska, Project Number: 103–HD022/NE26–Q991–002.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of

the amount of approved capital advance funds prior to initial closing.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: August 3, 2001.

Reason Waived: The project was economically designed, comparable to similar projects in the area and the Sponsor had exhausted all efforts to obtain additional funding from other sources.

Contact: Brenda Butler, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–0614 extension 6788.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Jireh Meadows, Columbus, Ohio, Project Number: 043/HD041/OH16–Q991–004.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner

Date Granted: August 7, 2001.

Reason Waived: The project was economically designed, the cost was in line with the Sponsor's two other Section 811 projects under construction in the jurisdiction, and the Sponsor and consultant had exhausted all efforts to obtain additional funds from outside sources.

Contact: Gail Williamson, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–0614 extension 2473.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Timber Hills Independent Living Complex, Corinth, Mississippi, Project Number: 065–HD022/MS26–Q991–002.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: August 24, 2001.

Reason Waived: The development costs in the area were high. The Sponsor provided $45,155 for off-site improvements, and the poor soil conditions required heavier building foundations as well as extensive cut and fill preparation.

Contact: Rita Ross, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–0614 extension 2696.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Castlewood Terrace II, Granada Hills, California, Project Number: 122–EE150/CA16–S991–001.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: August 28, 2001.

Reason Waived: The City required the project to meet the 1998 edition of the Los Angeles Building Code and substantially increased the cost of the project. The project was economically designed and comparable to other projects in the area, and the Sponsor had exhausted all efforts to find additional funds.

Contact: Frank Tolliver, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–0614 extension 3821.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Beth Anne Extended Living, Chicago, Illinois, Project Number: 071–EE149/IL06–S991–008.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: August 30, 2001.

Reason Waived: The project was modestly designed, comparable to other similar projects and the Sponsor had exhausted all means of obtaining additional funds.

Contact: Dianna Plaugher, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–0614 extension 6791.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Lime House, Los Angeles, California, Project Number: 122–EE136/CA16–S981–005.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: August 30, 2001.

Reason Waived: The project was economically designed, comparable to other similar projects developed in the jurisdiction and all efforts to lower the cost of the project had been exhausted.

Contact: Dianna Plaugher, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–0614 extension 6791.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: NC Orange Senior Housing Corp., Orange, Essex County, New Jersey, Project Number: 031–EE048/NJ39–S981–005.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: August 30, 2001.

Reason Waived: The Sponsor had secured a significant amount of outside funding to help with the cost of demolition, unanticipated remediation expenses associated with the presence of asbestos and additional costs incurred to satisfy site and design requirements imposed by the City. The Sponsor had no other means of funding the additional shortfall in project cost, and the project was comparable to similar projects in the area.

Contact: Evelyn Berry, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–0614 extension 2483.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Jireh Villas, Columbus, Ohio, Project Number: 043–HD040/OH16–Q991–003.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: August 30, 2001.

Reason Waived: The Owner exhausted all available funds. The project was modest in design and similar in construction to others in the area.

Contact: Eloise May, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–0614 extension 2651.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Lookout Mountain VOA Housing, Summerville, Georgia, Project Number: 061–HD071/GA06–Q991–004.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: September 14, 2001.

Reason Waived: The development costs in the area were high, the Sponsor/Owner had exerted extensive efforts to reduce the cost of construction. The project was economically designed and comparable to other similar projects developed in the area.

Contact: Rita Ross, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–0614 extension 2696.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Montrose VOA Elderly Housing, Montrose, Colorado, Project Number: 101–EE046/CO99–S991–002

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: September 25, 2001.

Reason Waived: The project is modestly designed, the cost to construct the project is less than the cost to construct similar projects in the area, and the Sponsor has exhausted

all efforts to secure additional funding for the project.

Contact: Gail Williamson, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–0614 extension 2473.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: North Pine Street Senior Housing, Ukiah, Mendocino County, California, Project Number: 121–EE119/CA39–S981–012.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: September 25, 2001.

Reason Waived: The project is economically designed, comparable to similar projects in the area, and the Sponsor has exhausted all efforts to obtain the funds from other sources.

Contact: Brenda Butler, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–0614 extension 6788.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Highview Unity Apartments, Charleston, West Virginia, Project Number: 045–EE010/WV15–S971–001.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: September 25, 2001.

Reason Waived: Higher development costs have substantially increased the cost of the project. The project is economically designed and comparable to other projects in the area, and the Sponsor has exhausted all efforts to find additional funds from outside sources.

Contact: Frank Tolliver, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–0614 extension 3821.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Allegria Court, Providence, Rhode Island, Project Number: 016–EE031/RI43–S991–002.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: September 25, 2001.

Reason Waived: Development costs are higher than expected due to an increase in the Davis-Bacon wage rates, the project is economically designed and comparable to other projects in the area, and the Sponsor has exhausted all efforts to find additional funds from outside sources.

Contact: Frank Tolliver, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–0614 extension 3821.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Mama Nyumba II, St. Louis, Missouri, Project Number: 085–HD029/MO36–Q001–001.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: September 25, 2001.

Reason Waived: The project, is economically designed and comparable to other projects in the area, and the Sponsor has exhausted all efforts to find additional funds.

Contact: Frank Tolliver, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–0614 extension 3821.

• *Regulation:* 24 CFR 891.100(d) and 24 CFR 891.165.

Project/Activity: Greater St. Stephen Manor, New Orleans, Louisiana, Project Number: 064–EE083/LA48–S971–009.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing. HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: July 5, 2001.

Reason Waived: The project was delayed due to the difficulty of locating an architect who could design plans that were satisfactory for the project. Also, the project was economically designed, comparable to other similar projects developed in the jurisdiction, and the Sponsor had exhausted all efforts to obtain additional funding from other sources.

Contact: Brenda Butler, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–0614 extension 6788.

• *Regulation:* 24 CFR 891.100(d) and 24 CFR 891.165.

Project/Activity: Fort Washington Adventist Apartments, Fort Washington, Maryland, Project Number: 000–EE045/MD39–S971–001.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing. HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: July 25, 2001.

Reason Waived: Additional time was needed to file the Firm Commitment application due to the delay in receiving water and sewer allocation approval from the County Government. Also, the contractor increased his prices due to higher construction costs and higher Davis-Bacon wage rates, the project was economically designed and comparable to other project in the area, and the Sponsor had exhausted all efforts to find additional funds.

Contact: Frank Tolliver, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–0614 extension 3821.

• *Regulation:* 24 CFR 891.100(d) and 24 CFR 891.165.

Project/Activity: Edgewood Terrace III, Washington, DC Project Number: 000–EE047/DC39–S981–001.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing. HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: August 1, 2001.

Reason Waived: The project involved the conversion of an existing 300-unit public housing high rise into 73 Section 202 units and 127 mixed finance tax credit units, and the project had a complex layering of financing which had to be worked out. Also, the project was economically and modestly designed, comparable to similar projects developed in the area, and the Owner had no other additional funds to cover the shortfall of funds required to close the project.

Contact: Rita Ross, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–0614 extension 2696.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Union Seniors, Los Angeles, California, Project Number: 122–EE133/CA16–Q981–002.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: July 11, 2001.

Reason Waived: The project had been delayed due to the lengthy process on the

plan check by the City of Los Angeles, and the review and approval process by other departments in the city.

Contact: Dianna Plaugher, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–0614 extension 6791.

• *Regulation:* 24 CFR 891.165.

Project/Activity: The Summerdale Court, Clairton, Allegheny County, Pennsylvania, Project Number: 033–HD039/PA28–Q971–001.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: July 20, 2001.

Reason Waived: The project has been delayed due to litigation between the Owner corporation and the proposed locality because the City of Clairton refused to approve a conditional use permit.

Contact: Eloise May, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–0614 extension 2651.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Sumac Trail Apartments, Rhinelander, Wisconsin, Project Number: 075–HD050/WI39–Q971–001.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: July 20, 2001.

Reason Waived: The contractor resigned from the project, thereby, causing the Sponsor to need additional time to find a contractor, redesign the building, and resubmit the Firm Commitment.

Contact: Monique Love, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–0614 extension 2475.

• *Regulation:* 24 CFR 891.165.

Project/Activity: HSI/Eloise McCoy Village Apartments, Chicago, Illinois, Project Number: 071–EE115/IL06–S961–006.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: August 2, 2001.

Reason Waived: There was a change in the site, environmental problems with the new site had to be resolved, the contractor's costs increased after processing was completed, and the Sponsor had to seek additional financing from the City of Chicago.

Contact: Carissa Janis, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–0614 extension 2487.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Nashville Supportive Housing Development, Nashville-Davidson, Tennessee, Project Number: 086–HD016/TN43–Q971–001.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: August 28, 2001.

Reason Waived: Several site difficulties remained to be worked out and the drawings could not be completed until the site issues were resolved.

Contact: Rita Ross, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–0614 extension 2696.

• *Regulation:* 24 CFR 891.165 and 24 CFR 891.205.

Project/Activity: Senior Residence at Kaneohe, Kaneohe, Oahu, Hawaii, Project Number: 140–EH015/HI10–Q961–003 and HI10–Q971–002.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis. Section 891.205 only permits acquisition of properties from FDIC/RTC.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: September 20, 2001.

Reason Waived: Additional time is needed to complete the cost certification due to the complicated financing structure used to construct the project.

Contact: Frank Tolliver, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–0614 extension 3821.

• *Regulation:* 24 CFR 891.205.

Project/Activity: Elmwood House II, Marlton, New Jersey, Project Number: 035–EE043/NJ39–S001–005.

Nature of Requirement: Single-Purpose Owner. Section 891.205 requires that Section 202 project owners be single-purpose corporations.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: September 28, 2001.

Reason Waived: The Township is unwilling to allow the property to be subdivided and a single ownership entity in this case will result in cost savings and efficient management.

Contact: Evelyn Berry, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–0614 extension 2483.

• *Regulation:* 24 CFR 891.310(b)(1) and (b)(2).

Project/Activity: Project Share VII, Suffolk County, New York, Project Number: 012–HD090/NY36–Q991–001.

Nature of Requirement: Accessibility requirements.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: August 28, 2001.

Reason Waived: The project consists of four group homes for independent living for the chronically mentally ill, each serving three residents. The sites are designed to allow one bedroom and all common spaces in one home to be fully accessible. As a result, 10 percent of the project's bedrooms will meet all accessibility requirements.

Contact: Brenda Butler, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–0614 extension 6788.

• *Regulation:* 24 CFR 891.410(c).

Project/Activity: McIntyre School Apartments, Project Number: 024–EE015. The Boston Multifamily Hub has requested an income waiver for the subject project due to project vacancies.

Nature of Requirement: HUD regulations at 24 CFR 891.410(c) limits occupancy to Very Low Income elderly persons, i.e., households of one or more persons at least one of whom is 62 years of age at the time of initial occupancy.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: September 6, 2001.

Reason Waived: The Assistant Secretary has granted this waiver in order to allow the waiver of income restrictions to permit low-income individuals to reside at the subject 202/PRAC project. The project has one vacant unit and possible four more vacancies within the next month. If occupancy is increased, revenue will allow the project to meet operating expenses and continue as a viable project.

Contact: Ronald M. Wallace, Field Asset Management Division, Office of Asset Management, Room 6160, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–0614 extension 2590.

• *Regulation:* 24 CFR 891.410(c).

Project/Activity: Riverbend Apartments, Project Number: 064–EE039. The Fort Worth Multifamily Hub has requested an age and

income waiver for the subject project in order to permit sustaining occupancy for the project.

Nature of Requirement: HUD regulations at 24 CFR 891.410(c) limit occupancy to Very Low Income elderly persons, i.e., households of one or more persons at least one of whom is 62 years of age at the time of initial occupancy.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: September 28, 2001.

Reason Waived: The Assistant Secretary found good cause to grant this waiver to allow occupancy by non-elderly disabled and handicapped persons age 50 to 62. It will work to alleviate the current occupancy and financial problems at the property and enable the project to continue to serve as an affordable housing resource for the public.

Contact: Veronica C. Lewis, Field Asset Management Division, Office of Asset Management, Room 6160, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–0614 extension 2597.

III. Regulatory Waivers Granted by the Office of Multifamily Housing Assistance Restructuring (OMHAR)

For further information about the following waiver actions, please see the name of the contact person who immediately follows the description of the waiver granted.

• *Regulations:* 24 CFR 401.461.

Project/Activity: The following project requested a waiver of the regulatory requirement that interest on Mark-to-Market second mortgages accrue but not compound:

FHA No.	Project name	State
052–35401	Royal Oaks Apartments.	Maryland.

Nature of Requirement: The Mark-to-Market program regulations (in 24 CFR 401.461(b)(1)) specify interest on second mortgages accrue but not compound. The intent of this provision is to limit the size of second mortgage accruals for properties subject to mortgage restructuring and rental assistance sufficiency plans (''Restructuring Plans''), thus positioning properties for a stronger likelihood of long-term financial and physical integrity.

Granted By: Barbara Chiapella, Acting Director of OMHAR.

Date Granted: July 26, 2001.

Reasons Waived: The owner requested the use of compound, rather than simple interest on the Mark-to-Market second mortgage. The waiver facilitated the owner's efforts with respect to the tax credit allocation for this property. The effect was to increase the scope of rehabilitation of the property, and to increase expected recoveries to the federal government.

Contact: Dan Sullivan, Office of Multifamily Housing Assistance Restructuring, Department of Housing and Urban Development, Portals Building, Suite 400, 1280 Maryland Avenue, Washington, DC 20410; telephone (202) 708–0001.

• Regulations: 24 CFR 401.461.

Project/Activity: The following projects requested waivers to the:

FHA No.	Project name	State
084–55040	71 Hawthorne Place.	Missouri.
084–55052	Hawthorne Place East.	Missouri.
084–55005	Hawthorne Place North.	Missouri.
084–55014	Hawthorne Place South.	Missouri.

Nature of Requirement: The Mark-to-Market program regulations (in 24 CFR 401.461(b)(5)) allow HUD to forgive or modify the terms of second mortgages in order to facilitate transfers of properties to qualified nonprofit purchasers as part of a mortgage restructuring and rental assistance sufficiency plan (''Restructuring Plan'').

Granted By: Ira Peppercorn, Director of OMHAR.

Date Granted: August 2, 2001.

Reasons Waived: The 4 properties were part of a portfolio purchased by a qualified nonprofit organization prior to the development and implementation of a Restructuring Plan for each property, because the properties were initially ineligible for the Mark-to-Market program. Subsequently, by statute, the properties were deemed eligible. Not allowing forgiveness or modification of the Mark-to-Market second mortgages for these properties would result in the loss or deterioration of the properties and would discourage other transfers to qualified nonprofit purchasers.

Contact: Dan Sullivan, Office of Multifamily Housing Assistance Restructuring, Department of Housing and Urban Development, Portals Building, Suite 400, 1280 Maryland Avenue, Washington, DC 20410; telephone (202) 708–0001.

• *Regulations:* 24 CFR 401.600.

Project/Activity: The following projects requested waivers to the 12-month limit at above-market rents (24 CFR 401.600):

FHA No.	Project name	State
04635126	Advent II	OH
04335206	Alliance One	OH
04235277	Alliance Towers	OH
11535166	Arrowsmith Apartments.	TX
08735080	Athens Gardens Apts	TN
01257039	Crotona VI	NY
07135379	Deerfield Woods Apts. Phase I.	IL
03344007	East Mall	PA
03344007	East Mall	PA
03344007	East Mall	PA
03344007	East Mall	PA
04235121	Emeritus House (aka Phyllis Wheatley).	OH
04235162	Erie Square #1	OH
04235317	Fairview Manor	OH
07335305	Fountain Place Apartments.	IN
04335211	Glenwood Village	OH
08335299	Greenville Park	KY
07235055	Greystone Apartments.	IL
09435023	Holiday Village	ND
01744157	Mansfield, Edgewood & Vine.	CT
07535264	Marinette Woods	WI
01257056	Morrisania II	NY
08335044	Riverside Apartments	KY
04535085	Riverview Towers	WV
04635517	Rolling Ridge Townhouses.	OH
06135257	Shadowood Apartments.	GA
11235026	Southpark Garden Apartments.	TX
08444138	Sunflower Park Apartments.	KS
08444138	Sunflower Park Apartments.	KS
09335012	The Downtowner	MT
01257034	University Houses	NY
01735071	Vine Associates	CT
11435272	Waverly Village Apartments.	TX

Nature of Requirement: Section 401.600 requires that projects be marked down to market rents within 12 months of their first expiration date after January 1, 1998. The intent of this provision is to ensure timely processing of requests for restructuring, and that the properties will not default on their FHA insured mortgages during the restructuring process.

Granted By: Ira Peppercorn, Director of OMHAR.

Date Granted: July 17, 2001.

Reasons Waived: The attached list of projects were not assigned to the PAEs in a timely manner or the restructuring analysis was unavoidably delayed due to no fault of the owner.

Contact: Alberta Zinno, Office of Multifamily Housing Assistance Restructuring, Department of Housing and Urban Development, Portals Building, Suite 400, 1280 Maryland Avenue, Washington, DC 20410; telephone (202) 708–0001.

• *Regulations:* 24 CFR 401.600.

Project/Activity: The following projects requested waivers to the 12-month limit at above-market rents (24 CFR 401.600):

FHA No.	Project name	State
01257151	Aldus III	NY
06155068	Athens Arms Apartments.	GA
01444026	BMR #3	NY
01444047	Braco-I	NY
04335220	Citation	OH
01435019	Covenant Manor	NY
01257072	Ditmas II Apartments	NY
07135381	Dixon Square	IL
07335307	East Central Towers	IN
07535239	Florence Terrace Apartments.	WI
08335143	Horse Hollow Apartments.	KY
04392501	Jaycee Manor Apartments.	OH
08535262	JVL #16	MO
07155051	Knollwood Apartments.	IL
08335282	Menifee Housing	KY
05235351	Montpelier-Kennedy Apartments.	MD

FHA No.	Project name	State
09335082	Oakwood Village	MT
04235318	Oberlin Manor	OH
04335221	Odyssey	OH
01435034	Pilgrim Village Apartments.	NY
04235272	Riverside Manor Apartments.	OH
02335172	Schoolhouse 77	MA
04644088	SEM Villa I	OH
09335084	Silver Bow Village	MT
08335261	Tree Top Apartments	KY
07335329	Union City Apartments (aka South St. Village).	IN
10235132	Vantage Point Apartments.	KS
07135345	Watch Hill Tower	IL
07235028	Willow Oak Apartments I.	IL
03535061	Wrightstown Arms	NJ

Nature of Requirement: Section 401.600 requires that projects be marked down to market rents within 12 months of their first expiration date after January 1, 1998. The intent of this provision is to ensure timely processing of requests for restructuring, and that the properties will not default on their FHA insured mortgages during the restructuring process.

Granted By: Ira Peppercorn, Director of OMHAR.

Date Granted: September 17, 2001.

Reasons Waived: The attached list of projects were not assigned to the PAEs in a timely manner or the restructuring analysis was unavoidably delayed due to no fault of the owner.

Contact: Alberta Zinno, Office of Multifamily Housing Assistance Restructuring, Department of Housing and Urban Development, Portals Building, Suite 400, 1280 Maryland Avenue, Washington, DC 20410; telephone (202) 708–0001.

• *Regulations:* 24 CFR 401.600.

Project/Activity: The following projects requested waivers to the 12-month limit at above-market rents (24 CFR 401.600):

FHA No.	Project name	State
01257015	1992 Davidson Avenue.	NY
04344003	Capital Park Apartments.	OH
04344003	Capital Park Apartments.	OH
08335142	Cherokee Hills Apartments.	KY
01444013	Heritage Park Apartments.	NY
04744022	Lincolnshire of Albion	MI
01435030	Meadow Park Apartments.	NY
17135183	Parkview Apartments	WA
03344002	Penn Circle Towers ..	PA
03344002	Penn Circle Towers ..	PA
03344002	Penn Circle Towers ..	PA
03344002	Penn Circle Towers ..	PA
03344002	Penn Circle Towers ..	PA
01257024	Risley Dent Towers ..	NY
11592503	Union Park Apartments.	TX
01635032	Wickford Village	RI
11744108	Woodcrest Apartments.	OK

Nature of Requirement: Section 401.600 requires that projects be marked down to market rents within 12 months of their first expiration date after January 1, 1998. The intent of this provision is to ensure timely processing of requests for restructuring, and that the properties will not default on their FHA insured mortgages during the restructuring process.

Granted By: Ira Peppercorn, Director of OMHAR.

Date Granted: September 28, 2001.

Reasons Waived: The attached list of projects were not assigned to the PAEs in a timely manner or the restructuring analysis was unavoidably delayed due to no fault of the owner.

Contact: Alberta Zinno, Office of Multifamily Housing Assistance Restructuring, Department of Housing and Urban Development, Portals Building, Suite 400, 1280 Maryland Avenue, Washington, DC 20410; telephone (202) 708–0001.

IV. Regulatory Waivers Granted by the Office of Public and Indian Housing

For further information about the following waiver actions, please see the name of the contact person who immediately follows the description of the waiver granted.

• *Regulation:* 24 CFR 982.503(c)(2)(ii).

Project/Activity: Arlington Housing Authority, Massachusetts, Housing Choice Voucher Program.

Nature of Requirement: The regulation provides that the HUD field office may approve an exception payment standard between 110 and 120 percent of the published fair market rent if required as a reasonable accommodation for a family that includes a person with disabilities.

Granted By: Paula O. Blunt, Acting General Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: August 30, 2001.

Reason Waived: Approval of the waiver to allow the field office to approve an exception payment standard in excess of 120 percent made it possible for a family that includes a person with disabilities to remain in their current unit for one year to allow the family more time to search for suitable alternative housing.

Contact: Gerald Benoit, Director, Real Estate and Housing Performance Division, Office of Public and Assisted Housing Delivery, Office of Public and Indian Housing, Room 4210, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–0477.

• *Regulation:* 24 CFR 983.51 and 983.7(f)(2)(ii).

Project/Activity: Las Vegas Housing Authority (LVHA), Nevada, Project-based Assistance Program. LVHA requested a waiver to permit it to provide project-based subsidies for 52 units at Juan Garcia Gardens, a new 52-unit apartment development owned by the Ernie Cragin Limited Partnership. The LVHA and the Community Development Project Center of Nevada are general partners. LVHA will provide supportive services to the families that will reside at Juan Garcia Gardens. Juan Garcia Gardens is presently under construction and will be completed for occupancy by the end of 2001.

Nature of Requirement: The regulation requires HUD review and approval of a written selection policy and advertisement for the competitive selection of units to receive project-based assistance. This regulation also requires HUD field office selection of PBA-owned units.

Granted By: Paula O. Blunt, Acting General Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: August 30, 2001.

Reason Waived: Approval of the waiver will provide for new development of affordable rental housing units for extremely low-income families.

Contact: Gerald Benoit, Director, Real Estate and Housing Performance Division, Office of Public and Assisted Housing Delivery, Office of Public and Indian Housing, Room 4210, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–0477.

• *Regulation:* 24 CFR 983.51.

Project/Activity: Massachusetts Department of Housing and Community Development (DHCD), Massachusetts, Project-based Assistance Program. Massachusetts DHCD requested a waiver to permit it to select a YMCA proposal to provide project-based subsidies for 30 of 44 units to be renovated at the Pittsfield YMCA. The YMCA did not respond to the DCHA January 2001 advertisement to provide 100 project-based vouchers as part of its winter 2001 affordable housing funding round because it mistakenly believed that it already met the criteria to obtain project-based assistance (PBA) based on its 2000 award of affordable housing funding. The substantial rehabilitated project would convert 80 deteriorated single rooms into 44 studio apartments on floors three and four of the Pittsfield YMCA building. Start of the project had been delayed pending approval of PBA for 30 units that was needed to secure project financing.

Nature Of Requirement: The regulation requires HUD review and approval of a written selection policy and advertisement for the competitive selection of units to receive project-based assistance.

Granted By: Paula O. Blunt, Acting General Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: September 5, 2001.

Reason Waived: Approval of the waiver will provide for new development of affordable rental housing units for extremely low-income families.

Contact: Gerald Benoit, Director, Real Estate and Housing Performance Division, Office of Public and Assisted Housing Delivery, Office of Public and Indian Housing, Room 4210, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–0477.

• *Regulation:* 24 CFR 983.51.

Project/Activity: Housing Authority of Snohomish County, Washington, Project-

based Assistance Program. The Housing Authority of Snohomish County, on behalf of seven public housing agencies (PHAs) in the Puget Sound region (Snohomish County, Pierce County, King County, Renton, Tacoma, Everett, and Seattle) requested a waiver to select projects funded under the Sound Families Initiative. The seven PHAs have agreed to provide housing choice voucher program project-based assistance (PBA) in support of the Sound Families Initiative. The Sound Families Initiative is a $40 million program of the Bill and Melinda Gates Foundation that provides capital and housing-related service funds to help build or renovate 1,560 transitional housing units for formerly homeless families over the next three years. The projects funded under the Sound Families Initiative will have project-specific social services budgets ($1,500 per unit, per year for five years) and will provide on-site case management services, including job referral and placement services and plans to increase family self-sufficiency. The projects that would be subsidized with PBA have already been selected under a formal, open and competitive request for proposals that was widely advertised, through the Sound Families Initiative web site.

Nature of Requirement: The regulation requires HUD review and approval of a written selection policy and advertisement for the competitive selection of units to receive project-based assistance.

Granted By: Michael Liu, Assistant Secretary for Public and Indian Housing.

Date Granted: September 25, 2001.

Reason Waived: Approval of the waiver will provide for supportive housing for formerly homeless families.

Contact: Gerald Benoit, Director, Real Estate and Housing Performance Division, Office of Public and Assisted Housing Delivery, Office of Public and Indian Housing, Room 4210, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–0477.

• *Regulation:* 24 CFR 990.107(f) and 990.109.

Project/Activity: Area Housing Authority, County of Ventura, CA A request was made to permit the Authority to benefit from energy performance contracting for developments that have tenant-paid utilities. The HA estimates that it could increase savings substantially if it were able to undertake energy performance contracting for *both* PHA-paid and tenant-paid utilities.

Nature of Requirement: Under 24 CFR 990, Performance Funding System (PFS) energy conservation incentive that relates to energy performance contracting currently applies to only PHA-paid utilities. The Ventura Housing Authority has both PHA-paid and tenant-paid utilities.

Granted By: Paula O. Blunt, Acting General Deputy Assistant Secretary.

Date Granted: August 17, 2001.

Reason Waived: In September 1996, the Oakland Housing Authority was granted a waiver to permit the Authority to benefit from energy performance contracting for developments with tenant-paid utilities. The waiver was granted on the basis that the Authority presented a sound and reasonable methodology for doing so. The Ventura Housing Authority requested a waiver based on the same approved methodology. The waiver permits the HA to exclude from its PFS calculation of rental income, increased rental income due to the difference between updated baseline utility (before implementation of the energy conservation measures) and revised allowances (after implementation of the measures) for the project(s) involved for the duration of the contract period, which cannot exceed 12 years.

Contact: Regina McGill, Director, Attn: Peggy Mangum, ex4039, Funding and Financial Management Division, Office of Public and Assisted Housing Delivery; Office of Public and Indian Housing, Room 4216; (202) 708–1872.

• *Regulation:* 24 CFR 1000.214.

Project/Activity: Waiver request for late submission of Indian Housing Plans (IHPs) for the Huron Band of Potawatomi, Fulton, Michigan; Little River Band of Ottowa, Minstee, Michigan; the Match-e-be-nash-she-wish Band, Dorr, Michigan and the Sac and Fox Tribe, Tama, Iowa.

Nature of Requirement: IHPs must be initially sent by the recipient to the Area Office of Native American Programs (ONAP) no later than July 1. Grant funds cannot be provided until the plan is submitted and determined to be in compliance with section 102 of the Native American Housing Assistance and Self-Determination Act (NAHASDA) of 1996, and funds are available.

Granted By: Michael Liu, Assistant Secretary of Public and Indian Housing.

Date Granted: September 17, 2001.

Reason Waived: The IHPs for Fiscal Year 2001 were received one day after the regulatory deadline cited in section 214 of Part 1000. This provision was waived as the due date fell on a Sunday, July 1, 2001.

Contact: Deborah Lalancette, Director, Grants Management, Denver Program ONAP, 1999 Broadway, Suite 3390, Denver, CO 80202, (303) 675–1600 extension 3325.

• *Regulation:* 24 CFR 1000.336(b).

Project/Activity: Request to waive the regulatory deadline for submitting a Census Challenge to the data to be used to compute the Indian Housing Block Grant (IHBG) allocation for the Pueblo of San Felipe, San Felipe Pueblo, New Mexico, for Fiscal Year 2002.

Nature of Requirement: An Indian tribe, tribally designated housing entity (TDHE), or HUD may challenge data used in the IHBG formula.

Granted By: Paula O. Blunt, Acting General Deputy Assistant Secretary.

Date Granted: July 20, 2001.

Reason Waived: This request was waived for the following reasons: (1) Section 6 of the Executive Order 13175, ''Executive Order on Consultation and Cooperation with Tribal Governments'' dated November 6, 2000, requires HUD to consider applications for regulatory waivers with a general view of increasing opportunities for utilizing flexible policy approaches. (2) Recent changes in the Pueblo of San Felipe's tribal administration have had a significant impact on the Tribe's TDHE, including reorganization and restructuring. (3) Reorganization and restructuring of the TDHE have limited the organization's capacity to submit a Census Challenge in a timely fashion.

Contact: Deborah Lalancette, Director, Grants Management, Denver Program ONAP, 1999 Broadway, Suite 3390, Denver, CO 80202, (303) 675–1600 extension 3325.

[FR Doc. 02–2180 Filed 1–29–02; 8:45 am]

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Federal Register

Wednesday,
January 30, 2002

Part III

Department of Housing and Urban Development

Notice of Regulatory Waiver Requests Granted for the Third Quarter of Calendar Year 2001; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4682–N–03]

Notice of Regulatory Waiver Requests Granted for the Third Quarter of Calendar Year 2001

AGENCY: Office of the Secretary, HUD.

ACTION: Public notice of the granting of regulatory waivers from July 1, 2001, through September 30, 2001.

SUMMARY: Section 106 of the Department of Housing and Urban Development Reform Act of 1989 (the ''HUD Reform Act''), requires HUD to publish quarterly **Federal Register** notices of all regulatory waivers that HUD has approved. Each notice must cover the quarterly period since the most recent **Federal Register** notice. The purpose of this notice is to comply with the requirements of section 106 of the HUD Reform Act. This notice contains a list of regulatory waivers granted by HUD during the quarter beginning on July 1, 2001 and ending on September 30, 2001.

FOR FURTHER INFORMATION CONTACT: For general information about this notice, contact Aaron Santa Anna, Assistant General Counsel for Regulations, Room 10282, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708–3055 (this is not a toll-free number). Hearing or speech-impaired persons may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8391.

For information concerning a particular waiver action for which public notice is provided in this document, contact the person whose name and address follow the description of the waiver granted in the accompanying list of waiver-grant actions.

SUPPLEMENTARY INFORMATION: As part of the Housing and Urban Development Reform Act of 1989 (the ''HUD Reform Act''), the Congress adopted, at HUD's request, legislation to limit and control the granting of regulatory waivers by HUD. Section 106 of the HUD Reform Act added a new section 7(q) to the Department of Housing and Urban Development Act (2 U.S.C. 3535(q)), which provides that:

1. Any waiver of a regulation must be in writing and must specify the grounds for approving the waiver;

2. Authority to approve a waiver of a regulation may be delegated by the Secretary only to an individual of Assistant Secretary rank or equivalent rank, and the person to whom authority to waive is delegated must also have authority to issue the particular regulation to be waived;

3. Not less than quarterly, the Secretary must notify the public of all waivers of regulations that HUD has approved, by publishing a notice in the **Federal Register**. These notices (each covering the period since the most recent previous notification) shall:

a. Identify the project, activity, or undertaking involved;

b. Describe the nature of the provision waived, and the designation of the provision;

c. Indicate the name and title of the person who granted the waiver request;

d. Describe briefly the grounds for approval of the request;

e. State how additional information about a particular waiver grant action may be obtained.

Section 106 of the HUD Reform Act also contains requirements applicable to waivers of HUD handbook provisions that are not relevant to the purpose of this notice.

Today's document follows publication of HUD's Statement of Policy on Waiver of Regulations and Directives issued by HUD on April 22, 1991 (56 FR 16337). This notice covers HUD's waiver-grant activity from July 1, 2001 through September 30, 2001. This notice also includes a few waivers from an earlier reporting period that were inadvertently omitted from the appropriate earlier report. For ease of reference, the waivers granted by HUD are listed by HUD program office (for example, the Office of Community Planning and Development, the Office of Housing, the Office of Public and Indian Housing, etc.). Within each program office grouping, the waivers are listed sequentially by the section of title 24 being waived. For example, a waiver-grant action involving the waiver of a provision in 24 CFR part 58 would come before a waiver of a provision in 24 CFR part 570.

Where more than one regulatory provision is involved in the grant of a particular waiver request, the action is listed under the section number of the first regulatory requirement in title 24 that is being waived as part of the waiver-grant action. For example, a waiver of both § 58.73 and § 58.74 would appear sequentially in the listing under § 58.73.

Waiver-grant actions involving the same initial regulatory citation are in time sequence beginning with the earliest-dated waiver grant action.

Should HUD receive additional reports of waiver actions taken during the period covered by this report before the next report is published, the next updated report will include these earlier actions, as well as those that occurred between October 1, 2001 through December 31, 2001.

Accordingly, information about approved waiver requests pertaining to HUD regulations is provided in the Appendix that follows this notice.

Dated: January 22, 2002.

Alphonso Jackson,

Deputy Secretary.

Appendix

Listing of Waivers of Regulatory Requirements Granted by Offices of the Department of Housing and Urban Development July 1, 2001 through September 30, 2001

Note to Reader: More information about the granting of these waivers, including a copy of the waiver request and approval, may be obtained by contacting the person whose name is listed as the contact person directly after each set of waivers granted.

The regulatory waivers granted appear in the following order:

I. Regulatory waivers granted by the Office of Community Planning and Development.
II. Regulatory waivers granted by the Office of Housing.
III. Regulatory waivers granted by the Office of Multifamily Housing Assistance Restructuring.
IV. Regulatory waivers granted by the Office of Public and Indian Housing.

I. Regulatory Waivers Granted by the Office of Community Planning and Development

For further information about the following waiver actions, please see the name of the contact person who immediately follows the description of the waiver granted.

• *Regulation:* 24 CFR 5.110.

Project/Activity: Harris County, Texas requested that certain provisions of Section 290 of the Cranston-Gonzalez National Affordable Housing Act of 1990, as amended, be waived pursuant to 24 CFR 5.110 to allow the county to assist victims of Tropical Storm Allison.

Nature of Requirement: 24 CFR 5.110 allows the Department to waive any provision of the Cranston-Gonzalez National Affordable Housing Act of 1990, as amended, upon determination of good cause.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: August 13, 2001.

Reasons Waived: The Department determined that there was good cause for granting the waivers. These provisions should be waived to facilitate the County's efforts to assist victims of Tropical Storm Allison.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–2565, extension 4556.

• *Regulations:* 24 CFR 91.105(c); Section 220 (Act); 24 CFR 92.218(a); 24 CFR

92.219(a); 24 CFR 92.220(a); 24 CFR 92.221; 24 CFR 92.222(b); Section 212(e) (Act); 24 CFR 92.250; Section 203(b) (Act); 24 CFR 92.245(a)(iii); Section 231 (Act); 24 CFR 92.300(a)(1); and 24 CFR 92.353.

Project/Activity: Harris County, Texas requested a waiver of several laws and regulations in connection with the provision of HOME funds to address housing damage in an area covered by a Presidential declaration of major disaster.

Nature of Requirement: Relief was sought from the following requirements: 24 CFR 91.105(c)—Citizen Participation Plan requirement to provide not less than 30 days for citizen comment to changes to the Consolidated Plan; Section 220 (NAHA) and 24 CFR 92.218(a)—Amount of matching contribution; 24 CFR 92.219(a)—Recognition of matching contribution; 92.220(a)—Form of matching contribution; 24 CFR 92.221—Match credit; 92.222(b)—Reduction of matching contribution requirement; Section 212(e) (NAHA) and 24 CFR 92.250—Maximum per-unit subsidy; Section 203(b) (NAHA) and 24 CFR 92.245(a)(iii)—Maximum purchase price; Section 231 (NAHA) and 24 CFR 92.300(a)(1)—Set-aside for community housing development organizations; and 24 CFR 92.353—Displacement, relocation, and acquisition.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: August 13, 2001.

Reasons Waived: 24 CFR 5.110 and Section 290 of the Cranston-Gonzalez National Affordable Housing Act of 1990 respectively provide the Department the authority to waive regulatory provisions and suspend statutory requirements. Due to the severity of the storm damage from Tropical Storm Allison, the Department determined there was good cause to waive the above statutes and regulations.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Planning and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–2565, extension 4556.

• *Regulations:* 24 CFR 91.520(a).

Project/Activity: The city of Tulare, California requested a waiver of the submission deadline for the city's 2000 program year CAPER.

Nature of Requirement: The regulation at 24 CFR 91.520(a) requires each grantee to submit a performance report to HUD within 90 days after the close of the grantee's program year.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: August 13, 2001.

Reasons Waived: The regulations at 24 CFR 91.600 provide that ''upon determination of good cause, HUD may, subject to statutory limitations, waive any provision of this part'' of the regulations. The city requested an extension due to staffing shortages and the heavy workload in the city's Finance Department. The city needs additional time to generate the financial data for its CAPER. While the Department wants grantees to submit CAPER reports in a timely manner, the Department determined that there was good cause for granting this waiver since the staffing concerns would prevent the city from submitting an accurate and complete report. The city received an extension to October 31, 2001 to submit its 2000 CAPER to HUD.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–2565, extension 4556.

• *Regulations:* 24 CFR 91.520(a).

Project/Activity: The city of Trenton, New Jersey requested a waiver of the submission deadline for the city's 2000 program year CAPER.

Nature of Requirement: The regulation at 24 CFR 91.520(a) requires each grantee to submit a performance report to HUD within 90 days after the close of the grantee's program year.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: August 22, 2001.

Reasons Waived: The regulations at 24 CFR 91.600 provide that ''upon determination of good cause, HUD may, subject to statutory limitations, waive any provision of this part'' of the regulations. The city requested an extension due to staff changes in the Department of Housing and Economic Development. The city indicated that the additional time would allow for a thorough evaluation of its accomplishments and time for the thirty (30) day comment period. While the Department wants grantees to submit CAPER reports in a timely manner, the Department determined that there was good cause for granting this waiver since additional time would allow for comments and result in a more accurate report. The city received an extension to October 1, 2001 to submit its 2000 CAPER to HUD.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–2565, extension 4556.

• *Regulations:* 24 CFR 91.520(a).

Project/Activity: The city of New Britain, Connecticut requested a waiver of the submission deadline for the city's 2000 program year CAPER.

Nature of Requirement: The regulation at 24 CFR 91.520(a) requires each grantee to submit a performance report to HUD within 90 days after the close of the grantee's program year.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: September 5, 2001.

Reasons Waived: The regulations at 24 CFR 91.600 provide that ''upon determination of good cause, HUD may, subject to statutory limitations, waive any provision of this part'' of the regulations. The city requested an extension due to medical absence of the Grants Administrator from August to mid-September. This individual is responsible for the completion of New Britain's CAPER. While the Department wants grantees to submit CAPER reports in a timely manner, the Department determined that there was good cause for granting this waiver due to the circumstances described in the request. The city received an extension to October 31, 2001 to submit its 2000 CAPER to HUD.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–2565, extension 4556.

• *Regulations:* 24 CFR 91.520(a).

Project/Activity: The County of Baltimore, Maryland requested a waiver of the submission deadline for the county's 2000 program year CAPER.

Nature of Requirement: The regulation at 24 CFR 91.520(a) requires each grantee to submit a performance report to HUD within 90 days after the close of the grantee's program year.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: September 20, 2001.

Reasons Waived: The regulations at 24 CFR 91.600 provide that ''upon determination of good cause, HUD may, subject to statutory limitations, waive any provision of this part'' of the regulations. The County's Office of Community Conservation, which administers the CDBG program, will not be able to submit a complete CAPER report until Baltimore County closes out its fiscal year at the end of September. While the Department wants grantees to submit CAPER reports in a timely manner, the Department determined that there was good cause for granting this waiver because of the delay in the county's fiscal year closeout procedures. The county received an extension to November 30, 2001 to submit its 2000 CAPER to HUD.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–2565, extension 4556.

• *Regulations:* 24 CFR 91.520(a).

Project/Activity: The city of Baltimore, Maryland requested a waiver of the submission deadline for the city's 2000 program year CAPER.

Nature of Requirement: The regulation at 24 CFR 91.520(a) requires each grantee to submit a performance report to HUD within 90 days after the close of the grantee's program year.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: September 20, 2001.

Reasons Waived: The regulations at 24 CFR 91.600 provide that ''upon determination of good cause, HUD may, subject to statutory limitations, waive any provision of this part'' of the regulations. The city requested an extension due to organizational and personnel changes. Additionally, the city of Baltimore does not release financial records until the middle of August and it takes an additional month for review of these records. While the Department wants grantees to submit CAPER reports in a timely manner, the Department determined that there was good cause for granting this waiver due to the

circumstances described in the city's request. The city received an extension to December 3, 2001 to submit its 2000 CAPER to HUD.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–2565, extension 4556.

• *Regulations:* 24 CFR 91.520(a).

Project/Activity: The County of Hudson, New Jersey requested a waiver of the submission deadline for the county's 2000 program year CAPER.

Nature of Requirement: The regulation at 24 CFR 91.520(a) requires each grantee to submit a performance report to HUD within 90 days after the close of the grantee's program year.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: September 24, 2001.

Reasons Waived: The regulations at 24 CFR 91.600 provide that ''upon determination of good cause, HUD may, subject to statutory limitations, waive any provision of this part'' of the regulations. The county requested an extension due to the fact that the Chief of the County Division resigned and this individual was responsible for preparing the CAPER. While the Department wants grantees to submit CAPER reports in a timely manner, the Department determined that there was good cause for granting this waiver due to the staffing concerns. The county received an extension to November 27, 2001 to submit its 2000 CAPER to HUD.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–2565, extension 4556.

• *Regulations:* 24 CFR 91.520(a).

Project/Activity: Cherry Hill Township, New Jersey requested a waiver of the submission deadline for the township's 2000 program year CAPER.

Nature of Requirement: The regulation at 24 CFR 91.520(a) requires each grantee to submit a performance report to HUD within 90 days after the close of the grantee's program year.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: September 24, 2001.

Reasons Waived: The regulations at 24 CFR 91.600 provide that ''upon determination of good cause, HUD may, subject to statutory limitations, waive any provision of this part'' of the regulations. The township requested an extension due to staffing changes within the Department of Community Development. This Department has responsibility for preparing the CAPER. The township needs additional time to evaluate its accomplishments and allow for public comment. While the Department wants grantees to submit CAPER reports in a timely manner, the Department determined that there was good cause for granting this waiver since the staffing concerns would prevent the city from submitting an accurate and complete report and meet the other requirement. The township received an extension to October 31, 2001 to submit its 2000 CAPER to HUD.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–2565, extension 4556.

• *Regulations:* 24 CFR 91.520(a).

Project/Activity: The city of Lawton, Oklahoma requested a waiver of the submission deadline for the city's 2000 program year CAPER.

Nature of Requirement: The regulation at 24 CFR 91.520(a) requires each grantee to submit a performance report to HUD within 90 days after the close of the grantee's program year.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: September 24, 2001.

Reasons Waived: The regulations at 24 CFR 91.600 provide that ''upon determination of good cause, HUD may, subject to statutory limitations, waive any provision of this part'' of the regulations. The city requested an extension because the office had to relocate due to the presence of mold. The office did not have access to its file and was forced to work out of temporary office space. While the Department wants grantees to submit CAPER reports in a timely manner, the Department determined that there was good cause for granting this waiver due to the office relocation as documented. The city received an extension to December 30, 2001 to submit its 2000 CAPER to HUD.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–2565, extension 4556.

• *Regulations:* 24 CFR 91.520(a).

Project/Activity: The city of Philadelphia, Pennsylvania requested a waiver of the submission deadline for the city's 2000 program year CAPER.

Nature of Requirement: The regulation at 24 CFR 91.520(a) requires each grantee to submit a performance report to HUD within 90 days after the close of the grantee's program year.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: September 24, 2001.

Reasons Waived: The regulations at 24 CFR 91.600 provide that ''upon determination of good cause, HUD may, subject to statutory limitations, waive any provision of this part'' of the regulations. The city needs additional time to obtain the financial data for its CAPER. While the Department wants grantees to submit CAPER reports in a timely manner, the Department determined that there was good cause for granting this waiver based on the city's documentation of failure to obtain the necessary information. The city received an extension to November 1, 2001 to submit its 2000 CAPER to HUD.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708–2565, extension 4556.

• *Regulation:* 24 CFR 91.520(a).

Project/Activity: Harford County, Maryland requested a waiver of the submission deadline for the county's 2000 program year CAPER.

Nature of Requirement: The regulation at 24 CFR 91.520(a) requires each grantee to submit a performance report to HUD within 90 days after the close of the grantee's program year.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: September 25, 2001.

Reasons Waived: The regulations at 24 CFR 91.600 provide that ''upon determination of good cause, HUD may, subject to statutory limitations, waive any provision of this part'' of the regulations. The county requested an extension because the community development staff is responding to outstanding monitoring findings related to data required for the CAPER. The county is making progress in correcting data entered into HUD's Integrated Disbursement and Information System (IDIS). The IDIS information is used to compile CAPER data. Due to these responsibilities, the county will be unable to meet the deadline date. While the Department wants grantees to submit CAPER reports in a timely manner, the Department determined that there was good cause for granting this waiver to ensure an accurate report. The county received an extension to October 26, 2001 to submit its 2000 CAPER to HUD.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708–2565, extension 4556.

• *Regulations:* 24 CFR 91.520(a).

Project/Activity: Anoka County, Minnesota requested a waiver of the submission deadline for the county's 2000 program year CAPER.

Nature of Requirement: The regulation at 24 CFR 91.520(a) requires each grantee to submit a performance report to HUD within 90 days after the close of the grantee's program year.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: September 25, 2001.

Reasons Waived: The regulations at 24 CFR 91.600 provide that ''upon determination of good cause, HUD may, subject to statutory limitations, waive any provision of this part'' of the regulations. The county requested an extension due to staffing shortages. The county lost three staff members during the past year. Due to the staff turnover and the fact that the new manager only recently came on board, additional time is needed to complete preparation of the county's CAPER. While the Department wants grantees to submit CAPER reports in a timely manner, the Department determined that there was good cause for granting this waiver due to staffing concerns. The county received an extension to October 31, 2001 to submit its 2000 CAPER to HUD.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708–2565, extension 4556.

• *Regulations:* 24 CFR 91.520(a).

Project/Activity: The city of Virginia Beach, Virginia requested a waiver of the submission deadline for the city's 2000 program year CAPER.

Nature of Requirement: The regulation at 24 CFR 91.520(a) requires each grantee to submit a performance report to HUD within 90 days after the close of the grantee's program year.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: September 25, 2001.

Reasons Waived: The regulations at 24 CFR 91.600 provide that ''upon determination of good cause, HUD may, subject to statutory limitations, waive any provision of this part'' of the regulations. The city requested an extension due to technical difficulties with the Integrated Disbursement and Information System (IDIS) and the delayed receipt of information from two service providers. While the Department wants grantees to submit CAPER reports in a timely manner, the Department determined that there was good cause for granting this waiver due to the circumstances described in the request. The city received an extension to October 19, 2001 to submit its 2000 CAPER to HUD.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708–2565, extension 4556.

• *Regulation:* 24 CFR 91.520(a).

Project/Activity: The city of Suffolk, Virginia requested a waiver of the submission deadline for the city's 2000 program year CAPER.

Nature of Requirement: The regulation at 24 CFR 91.520(a) requires each grantee to submit a performance report to HUD within 90 days after the close of the grantee's program year.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: September 25, 2001.

Reasons Waived: The regulations at 24 CFR 91.600 provide that ''upon determination of good cause, HUD may, subject to statutory limitations, waive any provision of this part'' of the regulations. The city requested an extension due to city's need to clean up information in its Integrated Disbursement and Information System (IDIS). While the Department wants grantees to submit CAPER reports in a timely manner, the Department determined that there was good cause for granting this waiver due to the need for IDIS clean up. The city received an extension to October 29, 2001 to submit its 2000 CAPER to HUD.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708–2565, extension 4556.

• *Regulation:* 24 CFR 91.520(a).

Project/Activity: The state of Vermont requested a waiver of the submission deadline for the state's 2000 program year CAPER.

Nature of Requirement: The regulation at 24 CFR 91.520(a) requires each grantee to submit a performance report to HUD within 90 days after the close of the grantee's program year.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: September 25, 2001.

Reasons Waived: The regulations at 24 CFR 91.600 provide that ''upon determination of good cause, HUD may, subject to statutory limitations, waive any provision of this part'' of the regulations. The state requested an extension due to staffing shortages caused by budget restraints and a redesign of the program that has resulted in increased workload for existing staff. While the Department wants grantees to submit CAPER reports in a timely manner, the Department determined that there was good cause for granting this waiver due to the staffing concerns. The state received an extension to November 30, 2001 to submit its 2000 CAPER to HUD.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–2565, extension 4556.

• *Regulations:* 24 CFR 91.520(a).

Project/Activity: The city of West Covina, California requested a waiver of the submission deadline for the city's 2000 program year CAPER.

Nature of Requirement: The regulation at 24 CFR 91.520(a) requires each grantee to submit a performance report to HUD within 90 days after the close of the grantee's program year.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: September 26, 2001.

Reasons Waived: The regulations at 24 CFR 91.600 provide that ''upon determination of good cause, HUD may, subject to statutory limitations, waive any provision of this part'' of the regulations. The city requested an extension due to adjustment and alignment of city staff. The city determined that it would be prudent to hire a consultant to produce the city's CAPER. While the Department wants grantees to submit CAPER reports in a timely manner, the Department determined that there was good cause for granting this waiver because of the time necessary to hire and acclimate the consultant staff. The city received an extension to October 29, 2001 to submit its 2000 CAPER to HUD.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–2565, extension 4556.

• *Regulations:* 24 CFR 91.520(a).

Project/Activity: The city of Bristol, Virginia requested a waiver of the submission deadline for the city's 2000 program year CAPER.

Nature of Requirement: The regulation at 24 CFR 91.520(a) requires each grantee to submit a performance report to HUD within 90 days after the close of the grantee's program year.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: September 26, 2001.

Reasons Waived: The regulations at 24 CFR 91.600 provide that ''upon determination of good cause, HUD may, subject to statutory limitations, waive any provision of this part'' of the regulations. The city requested an extension to allow the city clerk to complete its 1999 program year fiscal closeout procedures before reconciling expenditures for the 2000 program year. The city needs additional time to generate the financial data for its CAPER. While the Department wants grantees to submit CAPER reports in a timely manner, the Department determined that there was good cause for granting this waiver. The City received an extension to October 29, 2001 to submit its 2000 CAPER to HUD.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–2565, extension 4556.

• *Regulations:* 24 CFR 91.520(a).

Project/Activity: The city of Portsmouth, Virginia requested a waiver of the submission deadline for the city's 2000 program year CAPER.

Nature of Requirement: The regulation at 24 CFR 91.520(a) requires each grantee to submit a performance report to HUD within 90 days after the close of the grantee's program year.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: September 26, 2001.

Reasons Waived: The regulations at 24 CFR 91.600 provide that ''upon determination of good cause, HUD may, subject to statutory limitations, waive any provision of this part'' of the regulations. The city requested an extension because the city's new community development staff is not familiar with the CAPER development process. While the Department wants grantees to submit CAPER reports in a timely manner, the Department determined that there was good cause for granting this waiver in view of the new CPD staff. The city received an extension to November 16, 2001 to submit its 2000 CAPER to HUD.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–2565, extension 4556.

• *Regulation:* 24 CFR 91.520(a).

Project/Activity: The city of Portland/Portland Consortium, Oregon requested a waiver of the submission deadline for the city's 2000 program year CAPER.

Nature of Requirement: The regulation at 24 CFR 91.520(a) requires each grantee to submit a performance report to HUD within

90 days after the close of the grantee's program year.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: September 26, 2001.

Reasons Waived: The regulations at 24 CFR 91.600 provide that ''upon determination of good cause, HUD may, subject to statutory limitations, waive any provision of this part'' of the regulations. The city requested an extension in order to ensure the accuracy of data reported from sub recipients. In addition, the consortium has encountered technical difficulties in producing the narrative portion of its CAPER. While the Department wants grantees to submit CAPER reports in a timely manner, the Department determined that there was good cause for granting this waiver to allow the consortium time to verify data and complete the narrative section. The Portland Consortium received an extension to October 31, 2001 to submit its 2000 CAPER to HUD.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–2565, extension 4556.

• *Regulations:* 24 CFR 91.520(a).

Project/Activity: The city of Alexandria, Virginia requested a waiver of the submission deadline for the city's 2000 program year CAPER.

Nature of Requirement: The regulation at 24 CFR 91.520(a) requires each grantee to submit a performance report to HUD within 90 days after the close of the grantee's program year.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: September 26, 2001.

Reasons Waived: The regulations at 24 CFR 91.600 provide that ''upon determination of good cause, HUD may, subject to statutory limitations, waive any provision of this part'' of the regulations. The city requested an extension due to lack of permanent fiscal staff that which delayed the completion of the financial reporting requirements for the CAPER and the public comment requirement. While the Department wants grantees to submit CAPER reports in a timely manner, the Department determined that there was good cause for granting this waiver due to staffing concerns. The city received an extension to October 31, 2001 to submit its 2000 CAPER to HUD.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–2565, extension 4556.

• *Regulation:* 24 CFR 91.520(a).

Project/Activity: The city of Urbana, Illinois requested a waiver of the submission deadline for the city's 2000 program year CAPER.

Nature of Requirement: The regulation at 24 CFR 91.520(a) requires each grantee to submit a performance report to HUD within 90 days after the close of the grantee's program year.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: September 26, 2001.

Reasons Waived: The regulations at 24 CFR 91.600 provide that ''upon determination of good cause, HUD may, subject to statutory limitations, waive any provision of this part'' of the regulations. The city requested an extension to allow additional budget and policy analysis necessary to address concerns regarding the city's expenditure under the CDBG public service cap. While the Department wants grantees to submit CAPER reports in a timely manner, the Department determined that there was good cause for granting this waiver to ensure an accurate report. The city received an extension to October 31, 2001 to submit its 2000 CAPER to HUD.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–2565, extension 4556.

• *Regulation:* 24 CFR 91.520(a).

Project/Activity: The city of Lowell, Massachusetts requested a waiver of the submission deadline for the city's 2000 program year CAPER.

Nature of Requirement: The regulation at 24 CFR 91.520(a) requires each grantee to submit a performance report to HUD within 90 days after the close of the grantee's program year.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: September 27, 2001.

Reasons Waived: The regulations at 24 CFR 91.600 provide that ''upon determination of good cause, HUD may, subject to statutory limitations, waive any provision of this part'' of the regulations. The city requested an extension to ensure completion of the city's Integrated Disbursement and Information System (IDIS) data review, update, and reconciliation process. In addition, the city anticipates possible shifts in staff priorities in order to address Consolidated Plan issues. While the Department wants grantees to submit CAPER reports in a timely manner, the Department determined that there was good cause for granting this waiver due to staff priorities and IDIS review, update, and reconciliation. The city received an extension to October 19, 2001 to submit its 2000 CAPER to HUD.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–2565, extension 4556.

• *Regulation:* 24 CFR 91.520(a).

Project/Activity: The city of Nashua, New Hampshire requested a waiver of the submission deadline for the city's 2000 program year CAPER.

Nature of Requirement: The regulation at 24 CFR 91.520(a) requires each grantee to submit a performance report to HUD within 90 days after the close of the grantee's program year.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: September 27, 2001.

Reasons Waived: The regulations at 24 CFR 91.600 provide that ''upon determination of good cause, HUD may, subject to statutory limitations, waive any provision of this part'' of the regulations. The city requested an extension because audited financial figures required for the reporting year will not be available until the middle of October. While the Department wants grantees to submit CAPER reports in a timely manner, the Department determined that there was good cause for granting this waiver to allow time for the audited financial data. The city received an extension to October 30, 2001 to submit its 2000 CAPER to HUD.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–2565, extension 4556.

• *Regulation:* 24 CFR 91.520(a).

Project/Activity: The city of Simi Valley, California requested a waiver of the submission deadline for the city's 2000 program year CAPER.

Nature of Requirement: The regulation at 24 CFR 91.520(a) requires each grantee to submit a performance report to HUD within 90 days after the close of the grantee's program year.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: September 28, 2001.

Reasons Waived: The regulations at 24 CFR 91.600 provide that ''upon determination of good cause, HUD may, subject to statutory limitations, waive any provision of this part'' of the regulations. The city requested an extension due to technical difficulties with the city's Integrated Disbursement and Information System (IDIS). While the Department wants grantees to submit CAPER reports in a timely manner, the Department determined that there was good cause for granting this waiver in order to allow time for the corrections to the IDIS to ensure an accurate and complete report. The city received an extension to October 23, 2001 to submit its 2000 CAPER to HUD.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–2565, extension 4556.

• *Regulation:* 24 CFR 91.520(a).

Project/Activity: The State of Alaska requested a waiver of the submission deadline for the state's 2000 program year CAPER.

Nature of Requirement: The regulation at 24 CFR 91.520(a) requires each grantee to submit a performance report to HUD within 90 days after the close of the grantee's program year.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: September 26, 2001.

Reasons Waived: The regulations at 24 CFR 91.600 provide that ''upon determination of

good cause, HUD may, subject to statutory limitations, waive any provision of this part'' of the regulations. The state requested an extension due to a family emergency of a key staff person who is responsible for preparing the CAPER. While the Department wants grantees to submit CAPER reports in a timely manner, the Department determined that there was good cause for granting this waiver due to the staffing problem and the need to allow sufficient time for public comment. The state received an extension to October 30, 2001 to submit its 2000 CAPER to HUD.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–2565, extension 4556.

• *Regulation:* 24 CFR 91.520(a).

Project/Activity: The Commonwealth of Virginia requested a waiver of the submission deadline for the state's 2000 program year CAPER.

Nature of Requirement: The regulation at 24 CFR 91.520(a) requires each grantee to submit a performance report to HUD within 90 days after the close of the grantee's program year.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: October 1, 2001.

Reasons Waived: The regulations at 24 CFR 91.600 provide that ''upon determination of good cause, HUD may, subject to statutory limitations, waive any provision of this part'' of the regulations. The city requested an extension due to personnel changes in the Virginia Housing Division. The state also needs time to develop information from the state and the Integrated Disbursement and Information System (IDIS) reporting formats. While the Department wants grantees to submit CAPER reports in a timely manner, the Department determined that there was good cause for granting this waiver. The state received an extension to October 26, 2001 to submit its 2000 CAPER to HUD.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–2565, extension 4556.

• *Regulation:* 24 CFR 92.251.

Project/Activity: The State of North Dakota requested a waiver of the requirement that HOME-assisted housing in certain counties and Indian Reservations covered under a Presidential Declaration of major disaster meet the applicable codes and property.

Nature of the Requirement: 24 CFR 92.251 requires all HOME-assisted housing to meet the acceptable codes, standards and ordinances, and zoning ordinances at the time of project completion to ensure that HOME-assisted housing is decent, safe, and sanitary.

Granted By: Donna Abbenante, Acting General Deputy Assistant Secretary for Community Planning and Development.

Date Granted: July 13, 2001.

Reasons Waived: Section 290 of the Cranston-Gonzalez National Affordable Housing Act allows a suspension of certain statutory requirements to facilitate emergency repairs on damaged housing within a Presidentially-declared Major Disaster Area to alleviate the hardship placed on the families affected by the disaster.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Planning and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–2565, extension 4556.

• *Regulation:* 24 CFR 92.214(a)(7).

Project/Activity: The city of Warren, Ohio requested a waiver of the provision that prohibit additional HOME assistance to a project previously assisted with HOME funds during the period of affordability.

Nature of Requirement: 24 CFR 92.214(a)(7) prohibit additional HOME assistance to a project previously assisted with HOME funds during the period of affordability.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: July 26, 2001.

Reasons Waived: 24 CFR 5.110 allows the Department to waive provisions of the HOME rule upon determination of good cause. The city recommended that additional HOME funds would be used to address the lead-based paint (LBP) issues in 35 homes by painting the homes rather than installing more costly vinyl siding in order to maximize the use of scare resources for the project.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–2565, extension 4556.

• *Regulation:* 24 CFR 583.115(2).

Project/Activity: Dade County, Florida Homeless Trust requested a waiver of the Supportive Housing Program rule that rents paid with funds for individuals must not exceed HUD-determined fair market rents.

Nature of Requirement: 24 CFR 583.115(2) prohibits grantees from using Supportive Housing Program funds to pay for rents that exceed HUD-determined fair market rents.

Granted By: Roy A. Bernardi, Assistant Secretary for Community Planning and Development.

Date Granted: September 17, 2001.

Reasons Waived: HUD determined that there is good cause to grant the waiver. Due to the increase in rents in the Miami Beach, it is difficult to find any units at or below the HUD-determined Fair Market Rent (FMR). Approving this waiver will avoid the displacement of clients from a familiar community and assist in their move to self-sufficiency through the enhancement of supportive services.

Contact: Cornelia Robertson-Terry, Office of Community Planning and Development, Room 7152, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC telephone (202) 708–2565, extension 4556.

II. Regulatory Waivers Granted by the Office of Housing

For further information about the following waiver actions, please see the name of the contact person who immediately follows the description of the waiver granted.

• *Regulation:* 1998 National SuperNOFA, Housing Counseling Training Program, 63 Federal Register 23977 (NOFA).

Project/Activity: A grantee under the NOFA requested a waiver of the NOFA prohibition on reimbursing counselors for the travel and hotel costs they incur when attending grantee's training sessions.

Nature of Requirement: The program requirements section of the NOFA explicitly prohibits grantees from reimbursing participating counselors for the travel, hotel, and food costs associated with their attendance at grantee's training.

Granted By: Sean G. Cassidy, General Deputy Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: July 31, 2001.

Reason Waived: The low turnout of counselors for grantee's training has been attributed to the inability of counselors and their counseling agencies to obtain sufficient funds to cover the travel and hotel costs incurred when attending the training. As a consequence of the inability of counselors to attend the training provided by grantee, the quality of counseling provided to renters and homeowners may suffer. HUD created the grants program for training because it determined that there was a nationwide need for training. HUD believes that the need for training continues to exist today. Therefore, a limited waiver of the prohibition on using grant funds to reimburse for travel and hotel costs is in the public interest and consistent with the programmatic objectives, under the statutory authority for the grants program, of helping to improve the quality of housing counseling available to renters and homeowners.

Contact: Jo Anne B. Edwards, Housing Program/Policy Specialist, Office of Single Family Program Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–0614, extension 2320.

• *Regulation:* 24 CFR 219.

Project/Activity: Allen Temple Apartments, FHA Project Numbers: 061–55007, 061–55016, and 061–55024. The Atlanta Multifamily Hub has requested a waiver of the Flexible Subsidy financing in place following the FHA-insured refinancing/rehabilitation of the subject properties.

Nature of Requirement: Regulations at 24 at CFR 219 governs the repayment of assistance provided under the Flexible Subsidy Program for Troubled Projects prior to May 1, 1996. It requires the repayment of the flexible subsidy loan at time of prepayment.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: August 1, 2001.

Reason Waived: The Assistant Secretary has approved this waiver because good cause has been shown that it is in the public's best interest to grant this waiver. Providing for a waiver of the repayment of the flexible subsidy loans will allow the owner to prepay the existing mortgages, obtain one new FHA-insured mortgage to perform substantial rehabilitation of the properties and allow the

flexible subsidy loan to remain as a soft second mortgage. If the waiver was not granted, the owner would not have the available funds to repay the flexible subsidy loan nor obtain the FHA-insured financing of the new mortgage, thereby losing the opportunity to improve this much needed housing for low income citizens of Atlanta, Georgia.

Contact: Marc A. Harris, Director, Field Asset Management Division, Office of Asset Management, Room 6160, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–0614 extension 2680.

• *Regulation:* 24 CFR 234.26(e)(3) and 24 CFR Part 234.26(i)(1)(iii).

Project/Activity: McLean Hills Condominium, McLean, Virginia.

Nature of Requirement: Title 24 of the Code of Federal Regulations, Part 234.26(e)(3) requires that in order for a condominium unit to be eligible for FHA mortgage insurance, at least 51% of all family units in the condominium project must be occupied by the owners as a principal residence or a secondary residence sold to owners who intend to meet this occupancy requirement. 24 CFR 234.26(i)(l)(iii) provides that no single entity (the same individual, investor group, partnership or corporation) may own more than 10 percent of the total number of units in a unapproved condominium project where FHA insurance is sought on a unit under HUD's condominium spot loan activities.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: July 11, 2001.

Reason Waived: Forty three percent of the units were owner occupied. Seventeen percent of the units were owned by the Fairfax County Redevelopment and Housing Authority. These units were rented under the county's moderate income rental program as part of its mission to develop and preserve affordable housing for low and moderate income households. Granting the waiver assisted HUD in attaining its objectives of promoting affordable housing for low- and moderate-income families and generally expanding homeownership opportunities.

Contact: Maynard T. Curry, Office of Single Family Program Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–2121.

• *Regulation:* 24 CFR 291.210(a).

Project/Activity: Teacher Next Door (TND) Initiative.

Nature of Requirement: Extension of sales under the Department's TND Initiative through March 1, 2002.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: August 2, 2001.

Reason Waived: To permit the continued sales of FHA insurable and uninsurable properties in designated revitalization areas to qualified teachers on a direct sales basis.

Contact: Dennis White, Housing Program Officer, Office of Single Family Asset Management, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202)-708–0614, extension 2306.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: The Palmer House, City of Wilkes-Barre, Luzerne County, Pennsylvania, Project Number: 034–EE091/PA26–S981–012.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: July 5, 2001.

Reason Waived: The project was economically designed, comparable in cost to similar projects; and with the loss of expected gap financing, the Sponsor could not contribute any additional funds.

Contact: Monique Love, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–0614 extension 2475.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Access House I, Parsippany, New Jersey, Project Number: 031–HD078/NJ39–Q971–001.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: July 5, 2001.

Reason Waived: The project was modest in design, comparable to similar projects in the area, the Owner had secured $143,000 in HOME funds and $20,000 from the Church of the Savior, and the Sponsor had exhausted all means of obtaining the additional funds.

Contact: Faye Norman, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–0614 extension 2482.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Adda and Paul Safran Senior Housing, Los Angeles, California, Project Number: 122–EE127/CA16–S971–012.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: July 5, 2001.

Reason Waived: Land and construction costs in the Los Angeles are very high, the Sponsor received a commitment of funds in the amount of $3,662,000 from the City of Los Angeles' Housing Department and the Sponsor had exhausted all means of obtaining the additional funds.

Contact: Rita Ross, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–0614 extension 2696.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: St. Boniface Gardens, Pembroke Pines, Broward County, Florida, Project Number: 066–EE074/FL29–S991–006.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: July 20, 2001.

Reason Waived: Site development and construction costs have increased significantly. Broward County has agreed to waive a portion of the impact fees; and the Sponsor is contributing $300,000 and has exhausted all efforts to obtain the additional funds from other sources.

Contact: Rita Ross, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone: (202) 708–0614 extension 2696.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: The Benjamin Rush House, Jasper, Indiana, Project Number: 073–HD052.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: August 1, 2001.

Reason Waived: The project was economically designed, comparable to other similar projects developed in the jurisdiction and all efforts to lower the cost of the project had been exhausted.

Contact: Dianna Plaugher, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone: (202) 708–0614 extension 6791.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Moreno Valley Senior Housing, Moreno Valley, California, Project Number: 143–EE037/CA43–S001–001.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: August 1, 2001.

Reason Waived: The project was economically designed and comparable to other projects in the area, and the Sponsor had exhausted all efforts to find additional funds.

Contact: Frank Tolliver, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–0614 extension 3821.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: New Generation Apartments, Omaha, Nebraska, Project Number: 103–HD022/NE26–Q991–002.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of

the amount of approved capital advance funds prior to initial closing.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: August 3, 2001.

Reason Waived: The project was economically designed, comparable to similar projects in the area and the Sponsor had exhausted all efforts to obtain additional funding from other sources.

Contact: Brenda Butler, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–0614 extension 6788.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Jireh Meadows, Columbus, Ohio, Project Number: 043/HD041/OH16–Q991–004.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner

Date Granted: August 7, 2001.

Reason Waived: The project was economically designed, the cost was in line with the Sponsor's two other Section 811 projects under construction in the jurisdiction, and the Sponsor and consultant had exhausted all efforts to obtain additional funds from outside sources.

Contact: Gail Williamson, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–0614 extension 2473.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Timber Hills Independent Living Complex, Corinth, Mississippi, Project Number: 065–HD022/MS26–Q991–002.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: August 24, 2001.

Reason Waived: The development costs in the area were high. The Sponsor provided $45,155 for off-site improvements, and the poor soil conditions required heavier building foundations as well as extensive cut and fill preparation.

Contact: Rita Ross, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–0614 extension 2696.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Castlewood Terrace II, Granada Hills, California, Project Number: 122–EE150/CA16–S991–001.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: August 28, 2001.

Reason Waived: The City required the project to meet the 1998 edition of the Los Angeles Building Code and substantially increased the cost of the project. The project was economically designed and comparable to other projects in the area, and the Sponsor had exhausted all efforts to find additional funds.

Contact: Frank Tolliver, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–0614 extension 3821.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Beth Anne Extended Living, Chicago, Illinois, Project Number: 071–EE149/IL06–S991–008.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: August 30, 2001.

Reason Waived: The project was modestly designed, comparable to other similar projects and the Sponsor had exhausted all means of obtaining additional funds.

Contact: Dianna Plaugher, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–0614 extension 6791.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Lime House, Los Angeles, California, Project Number: 122–EE136/CA16–S981–005.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: August 30, 2001.

Reason Waived: The project was economically designed, comparable to other similar projects developed in the jurisdiction and all efforts to lower the cost of the project had been exhausted.

Contact: Dianna Plaugher, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–0614 extension 6791.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: NC Orange Senior Housing Corp., Orange, Essex County, New Jersey, Project Number: 031–EE048/NJ39–S981–005.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: August 30, 2001.

Reason Waived: The Sponsor had secured a significant amount of outside funding to help with the cost of demolition, unanticipated remediation expenses associated with the presence of asbestos and additional costs incurred to satisfy site and design requirements imposed by the City. The Sponsor had no other means of funding the additional shortfall in project cost, and the project was comparable to similar projects in the area.

Contact: Evelyn Berry, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–0614 extension 2483.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Jireh Villas, Columbus, Ohio, Project Number: 043–HD040/OH16–Q991–003.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: August 30, 2001.

Reason Waived: The Owner exhausted all available funds. The project was modest in design and similar in construction to others in the area.

Contact: Eloise May, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–0614 extension 2651.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Lookout Mountain VOA Housing, Summerville, Georgia, Project Number: 061–HD071/GA06–Q991–004.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: September 14, 2001.

Reason Waived: The development costs in the area were high, the Sponsor/Owner had exerted extensive efforts to reduce the cost of construction. The project was economically designed and comparable to other similar projects developed in the area.

Contact: Rita Ross, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–0614 extension 2696.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Montrose VOA Elderly Housing, Montrose, Colorado, Project Number: 101–EE046/CO99–S991–002

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: September 25, 2001.

Reason Waived: The project is modestly designed, the cost to construct the project is less than the cost to construct similar projects in the area, and the Sponsor has exhausted

all efforts to secure additional funding for the project.

Contact: Gail Williamson, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–0614 extension 2473.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: North Pine Street Senior Housing, Ukiah, Mendocino County, California, Project Number: 121–EE119/CA39–S981–012.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: September 25, 2001.

Reason Waived: The project is economically designed, comparable to similar projects in the area, and the Sponsor has exhausted all efforts to obtain the funds from other sources.

Contact: Brenda Butler, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–0614 extension 6788.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Highview Unity Apartments, Charleston, West Virginia, Project Number: 045–EE010/WV15–S971–001.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: September 25, 2001.

Reason Waived: Higher development costs have substantially increased the cost of the project. The project is economically designed and comparable to other projects in the area, and the Sponsor has exhausted all efforts to find additional funds from outside sources.

Contact: Frank Tolliver, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–0614 extension 3821.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Allegria Court, Providence, Rhode Island, Project Number: 016–EE031/RI43–S991–002.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: September 25, 2001.

Reason Waived: Development costs are higher than expected due to an increase in the Davis-Bacon wage rates, the project is economically designed and comparable to other projects in the area, and the Sponsor has exhausted all efforts to find additional funds from outside sources.

Contact: Frank Tolliver, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–0614 extension 3821.

• *Regulation:* 24 CFR 891.100(d).

Project/Activity: Mama Nyumba II, St. Louis, Missouri, Project Number: 085–HD029/MO36–Q001–001.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: September 25, 2001.

Reason Waived: The project, is economically designed and comparable to other projects in the area, and the Sponsor has exhausted all efforts to find additional funds.

Contact: Frank Tolliver, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–0614 extension 3821.

• *Regulation:* 24 CFR 891.100(d) and 24 CFR 891.165.

Project/Activity: Greater St. Stephen Manor, New Orleans, Louisiana, Project Number: 064–EE083/LA48–S971–009.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing. HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: July 5, 2001.

Reason Waived: The project was delayed due to the difficulty of locating an architect who could design plans that were satisfactory for the project. Also, the project was economically designed, comparable to other similar projects developed in the jurisdiction, and the Sponsor had exhausted all efforts to obtain additional funding from other sources.

Contact: Brenda Butler, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–0614 extension 6788.

• *Regulation:* 24 CFR 891.100(d) and 24 CFR 891.165.

Project/Activity: Fort Washington Adventist Apartments, Fort Washington, Maryland, Project Number: 000–EE045/MD39–S971–001.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing. HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: July 25, 2001.

Reason Waived: Additional time was needed to file the Firm Commitment application due to the delay in receiving water and sewer allocation approval from the County Government. Also, the contractor increased his prices due to higher construction costs and higher Davis-Bacon wage rates, the project was economically designed and comparable to other project in the area, and the Sponsor had exhausted all efforts to find additional funds.

Contact: Frank Tolliver, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–0614 extension 3821.

• *Regulation:* 24 CFR 891.100(d) and 24 CFR 891.165.

Project/Activity: Edgewood Terrace III, Washington, DC Project Number: 000–EE047/DC39–S981–001.

Nature of Requirement: HUD's regulation at 24 CFR 891.100(d) prohibits amendment of the amount of approved capital advance funds prior to initial closing. HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: August 1, 2001.

Reason Waived: The project involved the conversion of an existing 300-unit public housing high rise into 73 Section 202 units and 127 mixed finance tax credit units, and the project had a complex layering of financing which had to be worked out. Also, the project was economically and modestly designed, comparable to similar projects developed in the area, and the Owner had no other additional funds to cover the shortfall of funds required to close the project.

Contact: Rita Ross, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–0614 extension 2696.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Union Seniors, Los Angeles, California, Project Number: 122–EE133/CA16–Q981–002.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: July 11, 2001.

Reason Waived: The project had been delayed due to the lengthy process on the

plan check by the City of Los Angeles, and the review and approval process by other departments in the city.

Contact: Dianna Plaugher, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–0614 extension 6791.

• *Regulation:* 24 CFR 891.165.

Project/Activity: The Summerdale Court, Clairton, Allegheny County, Pennsylvania, Project Number: 033–HD039/PA28–Q971–001.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: July 20, 2001.

Reason Waived: The project has been delayed due to litigation between the Owner corporation and the proposed locality because the City of Clairton refused to approve a conditional use permit.

Contact: Eloise May, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–0614 extension 2651.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Sumac Trail Apartments, Rhinelander, Wisconsin, Project Number: 075–HD050/WI39–Q971–001.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: July 20, 2001.

Reason Waived: The contractor resigned from the project, thereby, causing the Sponsor to need additional time to find a contractor, redesign the building, and resubmit the Firm Commitment.

Contact: Monique Love, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–0614 extension 2475.

• *Regulation:* 24 CFR 891.165.

Project/Activity: HSI/Eloise McCoy Village Apartments, Chicago, Illinois, Project Number: 071–EE115/IL06–S961–006.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: August 2, 2001.

Reason Waived: There was a change in the site, environmental problems with the new site had to be resolved, the contractor's costs increased after processing was completed, and the Sponsor had to seek additional financing from the City of Chicago.

Contact: Carissa Janis, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–0614 extension 2487.

• *Regulation:* 24 CFR 891.165.

Project/Activity: Nashville Supportive Housing Development, Nashville-Davidson, Tennessee, Project Number: 086–HD016/TN43–Q971–001.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: August 28, 2001.

Reason Waived: Several site difficulties remained to be worked out and the drawings could not be completed until the site issues were resolved.

Contact: Rita Ross, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–0614 extension 2696.

• *Regulation:* 24 CFR 891.165 and 24 CFR 891.205.

Project/Activity: Senior Residence at Kaneohe, Kaneohe, Oahu, Hawaii, Project Number: 140–EH015/HI10–Q961–003 and HI10–Q971–002.

Nature of Requirement: HUD's regulation at 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance with limited exceptions up to 24 months, as approved by HUD on a case-by-case basis. Section 891.205 only permits acquisition of properties from FDIC/RTC.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: September 20, 2001.

Reason Waived: Additional time is needed to complete the cost certification due to the complicated financing structure used to construct the project.

Contact: Frank Tolliver, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–0614 extension 3821.

• *Regulation:* 24 CFR 891.205.

Project/Activity: Elmwood House II, Marlton, New Jersey, Project Number: 035–EE043/NJ39–S001–005.

Nature of Requirement: Single-Purpose Owner. Section 891.205 requires that Section 202 project owners be single-purpose corporations.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: September 28, 2001.

Reason Waived: The Township is unwilling to allow the property to be subdivided and a single ownership entity in this case will result in cost savings and efficient management.

Contact: Evelyn Berry, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–0614 extension 2483.

• *Regulation:* 24 CFR 891.310(b)(1) and (b)(2).

Project/Activity: Project Share VII, Suffolk County, New York, Project Number: 012–HD090/NY36–Q991–001.

Nature of Requirement: Accessibility requirements.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: August 28, 2001.

Reason Waived: The project consists of four group homes for independent living for the chronically mentally ill, each serving three residents. The sites are designed to allow one bedroom and all common spaces in one home to be fully accessible. As a result, 10 percent of the project's bedrooms will meet all accessibility requirements.

Contact: Brenda Butler, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–0614 extension 6788.

• *Regulation:* 24 CFR 891.410(c).

Project/Activity: McIntyre School Apartments, Project Number: 024–EE015. The Boston Multifamily Hub has requested an income waiver for the subject project due to project vacancies.

Nature of Requirement: HUD regulations at 24 CFR 891.410(c) limits occupancy to Very Low Income elderly persons, i.e., households of one or more persons at least one of whom is 62 years of age at the time of initial occupancy.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: September 6, 2001.

Reason Waived: The Assistant Secretary has granted this waiver in order to allow the waiver of income restrictions to permit low-income individuals to reside at the subject 202/PRAC project. The project has one vacant unit and possible four more vacancies within the next month. If occupancy is increased, revenue will allow the project to meet operating expenses and continue as a viable project.

Contact: Ronald M. Wallace, Field Asset Management Division, Office of Asset Management, Room 6160, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–0614 extension 2590.

• *Regulation:* 24 CFR 891.410(c).

Project/Activity: Riverbend Apartments, Project Number: 064–EE039. The Fort Worth Multifamily Hub has requested an age and

income waiver for the subject project in order to permit sustaining occupancy for the project.

Nature of Requirement: HUD regulations at 24 CFR 891.410(c) limit occupancy to Very Low Income elderly persons, i.e., households of one or more persons at least one of whom is 62 years of age at the time of initial occupancy.

Granted By: John C. Weicher, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: September 28, 2001.

Reason Waived: The Assistant Secretary found good cause to grant this waiver to allow occupancy by non-elderly disabled and handicapped persons age 50 to 62. It will work to alleviate the current occupancy and financial problems at the property and enable the project to continue to serve as an affordable housing resource for the public.

Contact: Veronica C. Lewis, Field Asset Management Division, Office of Asset Management, Room 6160, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone: (202) 708–0614 extension 2597.

III. Regulatory Waivers Granted by the Office of Multifamily Housing Assistance Restructuring (OMHAR)

For further information about the following waiver actions, please see the name of the contact person who immediately follows the description of the waiver granted.

• *Regulations:* 24 CFR 401.461.

Project/Activity: The following project requested a waiver of the regulatory requirement that interest on Mark-to-Market second mortgages accrue but not compound:

FHA No.	Project name	State
052–35401	Royal Oaks Apartments.	Maryland.

Nature of Requirement: The Mark-to-Market program regulations (in 24 CFR 401.461(b)(1)) specify interest on second mortgages accrue but not compound. The intent of this provision is to limit the size of second mortgage accruals for properties subject to mortgage restructuring and rental assistance sufficiency plans (''Restructuring Plans''), thus positioning properties for a stronger likelihood of long-term financial and physical integrity.

Granted By: Barbara Chiapella, Acting Director of OMHAR.

Date Granted: July 26, 2001.

Reasons Waived: The owner requested the use of compound, rather than simple interest on the Mark-to-Market second mortgage. The waiver facilitated the owner's efforts with respect to the tax credit allocation for this property. The effect was to increase the scope of rehabilitation of the property, and to increase expected recoveries to the federal government.

Contact: Dan Sullivan, Office of Multifamily Housing Assistance Restructuring, Department of Housing and Urban Development, Portals Building, Suite 400, 1280 Maryland Avenue, Washington, DC 20410; telephone (202) 708–0001.

• Regulations: 24 CFR 401.461.

Project/Activity: The following projects requested waivers to the:

FHA No.	Project name	State
084–55040	71 Hawthorne Place.	Missouri.
084–55052	Hawthorne Place East.	Missouri.
084–55005	Hawthorne Place North.	Missouri.
084–55014	Hawthorne Place South.	Missouri.

Nature of Requirement: The Mark-to-Market program regulations (in 24 CFR 401.461(b)(5)) allow HUD to forgive or modify the terms of second mortgages in order to facilitate transfers of properties to qualified nonprofit purchasers as part of a mortgage restructuring and rental assistance sufficiency plan (''Restructuring Plan'').

Granted By: Ira Peppercorn, Director of OMHAR.

Date Granted: August 2, 2001.

Reasons Waived: The 4 properties were part of a portfolio purchased by a qualified nonprofit organization prior to the development and implementation of a Restructuring Plan for each property, because the properties were initially ineligible for the Mark-to-Market program. Subsequently, by statute, the properties were deemed eligible. Not allowing forgiveness or modification of the Mark-to-Market second mortgages for these properties would result in the loss or deterioration of the properties and would discourage other transfers to qualified nonprofit purchasers.

Contact: Dan Sullivan, Office of Multifamily Housing Assistance Restructuring, Department of Housing and Urban Development, Portals Building, Suite 400, 1280 Maryland Avenue, Washington, DC 20410; telephone (202) 708–0001.

• *Regulations:* 24 CFR 401.600.

Project/Activity: The following projects requested waivers to the 12-month limit at above-market rents (24 CFR 401.600):

FHA No.	Project name	State
04635126	Advent II	OH
04335206	Alliance One	OH
04235277	Alliance Towers	OH
11535166	Arrowsmith Apartments.	TX
08735080	Athens Gardens Apts	TN
01257039	Crotona VI	NY
07135379	Deerfield Woods Apts. Phase I.	IL
03344007	East Mall	PA
03344007	East Mall	PA
03344007	East Mall	PA
03344007	East Mall	PA
04235121	Emeritus House (aka Phyllis Wheatley).	OH
04235162	Erie Square #1	OH
04235317	Fairview Manor	OH
07335305	Fountain Place Apartments.	IN
04335211	Glenwood Village	OH
08335299	Greenville Park	KY
07235055	Greystone Apartments.	IL
09435023	Holiday Village	ND
01744157	Mansfield, Edgewood & Vine.	CT
07535264	Marinette Woods	WI
01257056	Morrisania II	NY
08335044	Riverside Apartments	KY
04535085	Riverview Towers	WV
04635517	Rolling Ridge Townhouses.	OH
06135257	Shadowood Apartments.	GA
11235026	Southpark Garden Apartments.	TX
08444138	Sunflower Park Apartments.	KS
08444138	Sunflower Park Apartments.	KS
09335012	The Downtowner	MT
01257034	University Houses	NY
01735071	Vine Associates	CT
11435272	Waverly Village Apartments.	TX

Nature of Requirement: Section 401.600 requires that projects be marked down to market rents within 12 months of their first expiration date after January 1, 1998. The intent of this provision is to ensure timely processing of requests for restructuring, and that the properties will not default on their FHA insured mortgages during the restructuring process.

Granted By: Ira Peppercorn, Director of OMHAR.

Date Granted: July 17, 2001.

Reasons Waived: The attached list of projects were not assigned to the PAEs in a timely manner or the restructuring analysis was unavoidably delayed due to no fault of the owner.

Contact: Alberta Zinno, Office of Multifamily Housing Assistance Restructuring, Department of Housing and Urban Development, Portals Building, Suite 400, 1280 Maryland Avenue, Washington, DC 20410; telephone (202) 708–0001.

• *Regulations:* 24 CFR 401.600.

Project/Activity: The following projects requested waivers to the 12-month limit at above-market rents (24 CFR 401.600):

FHA No.	Project name	State
01257151	Aldus III	NY
06155068	Athens Arms Apartments.	GA
01444026	BMR #3	NY
01444047	Braco-I	NY
04335220	Citation	OH
01435019	Covenant Manor	NY
01257072	Ditmas II Apartments	NY
07135381	Dixon Square	IL
07335307	East Central Towers	IN
07535239	Florence Terrace Apartments.	WI
08335143	Horse Hollow Apartments.	KY
04392501	Jaycee Manor Apartments.	OH
08535262	JVL #16	MO
07155051	Knollwood Apartments.	IL
08335282	Menifee Housing	KY
05235351	Montpelier-Kennedy Apartments.	MD

FHA No.	Project name	State
09335082	Oakwood Village	MT
04235318	Oberlin Manor	OH
04335221	Odyssey	OH
01435034	Pilgrim Village Apartments.	NY
04235272	Riverside Manor Apartments.	OH
02335172	Schoolhouse 77	MA
04644088	SEM Villa I	OH
09335084	Silver Bow Village	MT
08335261	Tree Top Apartments	KY
07335329	Union City Apartments (aka South St. Village).	IN
10235132	Vantage Point Apartments.	KS
07135345	Watch Hill Tower	IL
07235028	Willow Oak Apartments I.	IL
03535061	Wrightstown Arms	NJ

Nature of Requirement: Section 401.600 requires that projects be marked down to market rents within 12 months of their first expiration date after January 1, 1998. The intent of this provision is to ensure timely processing of requests for restructuring, and that the properties will not default on their FHA insured mortgages during the restructuring process.

Granted By: Ira Peppercorn, Director of OMHAR.

Date Granted: September 17, 2001.

Reasons Waived: The attached list of projects were not assigned to the PAEs in a timely manner or the restructuring analysis was unavoidably delayed due to no fault of the owner.

Contact: Alberta Zinno, Office of Multifamily Housing Assistance Restructuring, Department of Housing and Urban Development, Portals Building, Suite 400, 1280 Maryland Avenue, Washington, DC 20410; telephone (202) 708–0001.

• *Regulations:* 24 CFR 401.600.

Project/Activity: The following projects requested waivers to the 12-month limit at above-market rents (24 CFR 401.600):

FHA No.	Project name	State
01257015	1992 Davidson Avenue.	NY
04344003	Capital Park Apartments.	OH
04344003	Capital Park Apartments.	OH
08335142	Cherokee Hills Apartments.	KY
01444013	Heritage Park Apartments.	NY
04744022	Lincolnshire of Albion	MI
01435030	Meadow Park Apartments.	NY
17135183	Parkview Apartments	WA
03344002	Penn Circle Towers ..	PA
03344002	Penn Circle Towers ..	PA
03344002	Penn Circle Towers ..	PA
03344002	Penn Circle Towers ..	PA
03344002	Penn Circle Towers ..	PA
01257024	Risley Dent Towers ..	NY
11592503	Union Park Apartments.	TX
01635032	Wickford Village	RI
11744108	Woodcrest Apartments.	OK

Nature of Requirement: Section 401.600 requires that projects be marked down to market rents within 12 months of their first expiration date after January 1, 1998. The intent of this provision is to ensure timely processing of requests for restructuring, and that the properties will not default on their FHA insured mortgages during the restructuring process.

Granted By: Ira Peppercorn, Director of OMHAR.

Date Granted: September 28, 2001.

Reasons Waived: The attached list of projects were not assigned to the PAEs in a timely manner or the restructuring analysis was unavoidably delayed due to no fault of the owner.

Contact: Alberta Zinno, Office of Multifamily Housing Assistance Restructuring, Department of Housing and Urban Development, Portals Building, Suite 400, 1280 Maryland Avenue, Washington, DC 20410; telephone (202) 708–0001.

IV. Regulatory Waivers Granted by the Office of Public and Indian Housing

For further information about the following waiver actions, please see the name of the contact person who immediately follows the description of the waiver granted.

• *Regulation:* 24 CFR 982.503(c)(2)(ii).

Project/Activity: Arlington Housing Authority, Massachusetts, Housing Choice Voucher Program.

Nature of Requirement: The regulation provides that the HUD field office may approve an exception payment standard between 110 and 120 percent of the published fair market rent if required as a reasonable accommodation for a family that includes a person with disabilities.

Granted By: Paula O. Blunt, Acting General Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: August 30, 2001.

Reason Waived: Approval of the waiver to allow the field office to approve an exception payment standard in excess of 120 percent made it possible for a family that includes a person with disabilities to remain in their current unit for one year to allow the family more time to search for suitable alternative housing.

Contact: Gerald Benoit, Director, Real Estate and Housing Performance Division, Office of Public and Assisted Housing Delivery, Office of Public and Indian Housing, Room 4210, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–0477.

• *Regulation:* 24 CFR 983.51 and 983.7(f)(2)(ii).

Project/Activity: Las Vegas Housing Authority (LVHA), Nevada, Project-based Assistance Program. LVHA requested a waiver to permit it to provide project-based subsidies for 52 units at Juan Garcia Gardens, a new 52-unit apartment development owned by the Ernie Cragin Limited Partnership. The LVHA and the Community Development Project Center of Nevada are general partners. LVHA will provide supportive services to the families that will reside at Juan Garcia Gardens. Juan Garcia Gardens is presently under construction and will be completed for occupancy by the end of 2001.

Nature of Requirement: The regulation requires HUD review and approval of a written selection policy and advertisement for the competitive selection of units to receive project-based assistance. This regulation also requires HUD field office selection of PBA-owned units.

Granted By: Paula O. Blunt, Acting General Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: August 30, 2001.

Reason Waived: Approval of the waiver will provide for new development of affordable rental housing units for extremely low-income families.

Contact: Gerald Benoit, Director, Real Estate and Housing Performance Division, Office of Public and Assisted Housing Delivery, Office of Public and Indian Housing, Room 4210, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–0477.

• *Regulation:* 24 CFR 983.51.

Project/Activity: Massachusetts Department of Housing and Community Development (DHCD), Massachusetts, Project-based Assistance Program. Massachusetts DHCD requested a waiver to permit it to select a YMCA proposal to provide project-based subsidies for 30 of 44 units to be renovated at the Pittsfield YMCA. The YMCA did not respond to the DCHA January 2001 advertisement to provide 100 project-based vouchers as part of its winter 2001 affordable housing funding round because it mistakenly believed that it already met the criteria to obtain project-based assistance (PBA) based on its 2000 award of affordable housing funding. The substantial rehabilitated project would convert 80 deteriorated single rooms into 44 studio apartments on floors three and four of the Pittsfield YMCA building. Start of the project had been delayed pending approval of PBA for 30 units that was needed to secure project financing.

Nature Of Requirement: The regulation requires HUD review and approval of a written selection policy and advertisement for the competitive selection of units to receive project-based assistance.

Granted By: Paula O. Blunt, Acting General Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: September 5, 2001.

Reason Waived: Approval of the waiver will provide for new development of affordable rental housing units for extremely low-income families.

Contact: Gerald Benoit, Director, Real Estate and Housing Performance Division, Office of Public and Assisted Housing Delivery, Office of Public and Indian Housing, Room 4210, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–0477.

• *Regulation:* 24 CFR 983.51.

Project/Activity: Housing Authority of Snohomish County, Washington, Project-

based Assistance Program. The Housing Authority of Snohomish County, on behalf of seven public housing agencies (PHAs) in the Puget Sound region (Snohomish County, Pierce County, King County, Renton, Tacoma, Everett, and Seattle) requested a waiver to select projects funded under the Sound Families Initiative. The seven PHAs have agreed to provide housing choice voucher program project-based assistance (PBA) in support of the Sound Families Initiative. The Sound Families Initiative is a $40 million program of the Bill and Melinda Gates Foundation that provides capital and housing-related service funds to help build or renovate 1,560 transitional housing units for formerly homeless families over the next three years. The projects funded under the Sound Families Initiative will have project-specific social services budgets ($1,500 per unit, per year for five years) and will provide on-site case management services, including job referral and placement services and plans to increase family self-sufficiency. The projects that would be subsidized with PBA have already been selected under a formal, open and competitive request for proposals that was widely advertised, through the Sound Families Initiative web site.

Nature of Requirement: The regulation requires HUD review and approval of a written selection policy and advertisement for the competitive selection of units to receive project-based assistance.

Granted By: Michael Liu, Assistant Secretary for Public and Indian Housing.

Date Granted: September 25, 2001.

Reason Waived: Approval of the waiver will provide for supportive housing for formerly homeless families.

Contact: Gerald Benoit, Director, Real Estate and Housing Performance Division, Office of Public and Assisted Housing Delivery, Office of Public and Indian Housing, Room 4210, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–0477.

• *Regulation:* 24 CFR 990.107(f) and 990.109.

Project/Activity: Area Housing Authority, County of Ventura, CA A request was made to permit the Authority to benefit from energy performance contracting for developments that have tenant-paid utilities. The HA estimates that it could increase savings substantially if it were able to undertake energy performance contracting for *both* PHA-paid and tenant-paid utilities.

Nature of Requirement: Under 24 CFR 990, Performance Funding System (PFS) energy conservation incentive that relates to energy performance contracting currently applies to only PHA-paid utilities. The Ventura Housing Authority has both PHA-paid and tenant-paid utilities.

Granted By: Paula O. Blunt, Acting General Deputy Assistant Secretary.

Date Granted: August 17, 2001.

Reason Waived: In September 1996, the Oakland Housing Authority was granted a waiver to permit the Authority to benefit from energy performance contracting for developments with tenant-paid utilities. The waiver was granted on the basis that the Authority presented a sound and reasonable methodology for doing so. The Ventura Housing Authority requested a waiver based on the same approved methodology. The waiver permits the HA to exclude from its PFS calculation of rental income, increased rental income due to the difference between updated baseline utility (before implementation of the energy conservation measures) and revised allowances (after implementation of the measures) for the project(s) involved for the duration of the contract period, which cannot exceed 12 years.

Contact: Regina McGill, Director, Attn: Peggy Mangum, ex4039, Funding and Financial Management Division, Office of Public and Assisted Housing Delivery; Office of Public and Indian Housing, Room 4216; (202) 708–1872.

• *Regulation:* 24 CFR 1000.214.

Project/Activity: Waiver request for late submission of Indian Housing Plans (IHPs) for the Huron Band of Potawatomi, Fulton, Michigan; Little River Band of Ottowa, Minstee, Michigan; the Match-e-be-nash-she-wish Band, Dorr, Michigan and the Sac and Fox Tribe, Tama, Iowa.

Nature of Requirement: IHPs must be initially sent by the recipient to the Area Office of Native American Programs (ONAP) no later than July 1. Grant funds cannot be provided until the plan is submitted and determined to be in compliance with section 102 of the Native American Housing Assistance and Self-Determination Act (NAHASDA) of 1996, and funds are available.

Granted By: Michael Liu, Assistant Secretary of Public and Indian Housing.

Date Granted: September 17, 2001.

Reason Waived: The IHPs for Fiscal Year 2001 were received one day after the regulatory deadline cited in section 214 of Part 1000. This provision was waived as the due date fell on a Sunday, July 1, 2001.

Contact: Deborah Lalancette, Director, Grants Management, Denver Program ONAP, 1999 Broadway, Suite 3390, Denver, CO 80202, (303) 675–1600 extension 3325.

• *Regulation:* 24 CFR 1000.336(b).

Project/Activity: Request to waive the regulatory deadline for submitting a Census Challenge to the data to be used to compute the Indian Housing Block Grant (IHBG) allocation for the Pueblo of San Felipe, San Felipe Pueblo, New Mexico, for Fiscal Year 2002.

Nature of Requirement: An Indian tribe, tribally designated housing entity (TDHE), or HUD may challenge data used in the IHBG formula.

Granted By: Paula O. Blunt, Acting General Deputy Assistant Secretary.

Date Granted: July 20, 2001.

Reason Waived: This request was waived for the following reasons: (1) Section 6 of the Executive Order 13175, ''Executive Order on Consultation and Cooperation with Tribal Governments'' dated November 6, 2000, requires HUD to consider applications for regulatory waivers with a general view of increasing opportunities for utilizing flexible policy approaches. (2) Recent changes in the Pueblo of San Felipe's tribal administration have had a significant impact on the Tribe's TDHE, including reorganization and restructuring. (3) Reorganization and restructuring of the TDHE have limited the organization's capacity to submit a Census Challenge in a timely fashion.

Contact: Deborah Lalancette, Director, Grants Management, Denver Program ONAP, 1999 Broadway, Suite 3390, Denver, CO 80202, (303) 675–1600 extension 3325.

[FR Doc. 02–2180 Filed 1–29–02; 8:45 am]

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Federal Register

Wednesday,

January 30, 2002

Part IV

Postal Service

39 CFR Part 111

Proposed Changes to the Domestic Mail Manual To Implement Docket No. R2001–1; Proposed Rule

POSTAL SERVICE

39 CFR Part 111

Proposed Changes to the Domestic Mail Manual To Implement Docket No. R2001–1

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: On September 24, 2001, the United States Postal Service, in conformance with sections 3622 and 3623 of the Postal Reorganization Act (39 U.S.C. 101 *et seq.*), filed a request for a recommended decision by the Postal Rate Commission (PRC) on proposed rate, fee, and classification changes. The PRC designated this filing as Docket No. R2001–1 and issued a notice of filing in Order No. 1324 on September 26, 2001.

On October 25, 2001, the PRC directed the participants to consider the possibility of a settlement. Noting the extraordinary national events experienced during September, and the potential effects that changed circumstances might have on the Postal Service's request, the PRC requested all participants consider whether substantial agreement on issues and objectives might permit a beneficial resolution of the proceeding.

Counsel for the Postal Service, the Office of the Consumer Advocate, and participating intervenors discussed the issues presented by this case at conferences on October 30, and November 16, 2001, to which all intervenors and the Office of the Consumer Advocate were invited. The Postal Service also consulted with intervenors individually and in smaller groups.

On December 17, 2001, the Postal Service filed a Stipulation and Agreement for settlement of Docket No. R2001–1, together with a motion for the establishment of preliminary procedures and a schedule. On December 26, 2001, the Postal Service with concurrence of its Board of Governors agreed to changes in the terms of the Stipulation and Agreement. These changes included specifying June 30, 2002, rather than June 2, 2002, as the earliest effective date for rate, fee, and classification changes. The revision also restored the rates for intra- and inter-BMC parcel post back to the levels originally proposed in the September 24, 2001 request. Between December 26, 2001, and January 17, 2002, fifty parties adhered to the terms of the revised settlement by signing the agreement.

On January 17, 2002, the Postal Service filed a second revised Stipulation and Agreement that included several relatively minor changes in the rates proposed for the Enhanced Carrier Route (ECR) subclass of Standard Mail. In all other respects, the Stipulation and Agreement remained the same. Subsequently, six additional parties adhered to the settlement agreement. Only one participant opposed the settlement.

The PRC will hold hearings to consider the opposition to the settlement. It will then issue a recommended decision to the Postal Service Board of Governors, who will act on it. If the recommendations are approved, the Board of Governors will establish an effective date.

At this time, the Postal Service is publishing this proposed rule which provides information on the implementing standards for the rate, fee, and classification changes the Postal Service proposes to adopt if the terms of the second revised Stipulation and Agreement are consistent with the PRC's recommended decision on R2001–1 and if the Governors of the Postal Service, acting pursuant to 39 U.S.C. 3625, approve that recommended decision.

DATES: Comments must be received on or before March 1, 2002.

ADDRESSES: Send written comments to the Manager, Mail Preparation and Standards, U.S. Postal Service, 1735 North Lynn Street, Room 3025, Arlington, VA 22209–6038. Written comments may be submitted via fax to 703–292–4058. Copies of all written comments will be available for inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, at Postal Service Headquarters Library, 475 L'Enfant Plaza SW., Room 11800, Washington, DC 20260–1540.

FOR FURTHER INFORMATION CONTACT:

General contact for all subjects: Jane Stefaniak, 703–292–3548.

For Express Mail and Priority Mail: Karen Magazino, 703–292–3644.

For First-Class Mail and Standard Mail: Anne Emmerth, 703–292–3641.

For Periodicals: Joel Walker, 703–292–3652.

For Package Services: OB Akinwole, 703–292–3643.

For Special Services: Pat Bennett, 703–292–3639.

SUPPLEMENTARY INFORMATION: The Postal Service's request in Docket No. R2001–1 and as amended in the second revised Stipulation and Agreement filed on January 17, 2002, includes classification and rate structure changes, and increases in most existing rate and fee categories. This proposed rule contains the Domestic Mail Manual (DMM) standards the Postal Service would adopt to implement R2001–1. Part A of this document summarizes the proposed revisions to the DMM by class of mail and special service category. Part B summarizes the proposed changes by DMM module and section. The text of the proposed changes to the DMM standards appear after Part B.

Comments are solicited on the proposed implementing of DMM standards that appear in this proposed rule. As information, the DMM language in this proposed rule incorporates all revisions to the DMM from previously published **Federal Register** final rules that have taken effect or will take effect on or before the implementation of the rates resulting from the R2001–1 rate case. As a result, the numbering and the language of the DMM sections in this proposed rule have been synchronized with these final rules and may not match the numbering and language in the current DMM 56.

A 6-month phase-in period is proposed for mailer implementation of the requirements for formatting card-rate First-Class Mail; for mail preparation and tray labeling of nonmachinable First-Class Mail and Standard Mail; and, for the tray labeling changes affecting Standard Mail Enhanced Carrier Route high density and saturation rate letters. Mailers are asked to comment both on the language of these proposed requirements and their ability to meet the proposed 6-month time frame.

Although proposed rates, rate categories, and rate structures are included in this proposed rule, they are outside the scope of this rulemaking process because they are still under review by the Postal Rate Commission. Accordingly, comments on whether the current basic automation rate for letter-size First-Class Mail and Standard Mail should be split into an automated area distribution center (AADC) rate and a mixed AADC rate, or offered at different rates, would not be appropriate. However, comments suggesting changes to the way the Postal Service would implement standards for the proposed AADC and mixed AADC rates would be appropriate.

Part A—Summary of Changes by Class of Mail

The following information details the R2001–1 proposed changes organized by class of mail and special service category. This information is intended as an overview only and should not be viewed as defining every proposed DMM revision.

1. Express Mail

a. Express Mail Rate Highlights

Overall, Express Mail rates would increase an average of 9.4%. The most significant change to the Express Mail rate structure would be to the flat-rate envelope. Currently, the rate for the Express Mail flat-rate envelope is the same as the applicable 2-pound rate. The proposed rate for the flat-rate envelope would be the ½-pound rate, which is the lowest available rate for each Express Mail service offering. The rate for the flat-rate envelope would decrease for Post Office to Addressee service from $16.25 to $13.65, but the size of the envelope would remain the same.

The indemnity included in the price of Express Mail would be reduced from $500 to $100 for both merchandise and document reconstruction. This adjustment would more closely align with general industry practice. The fee for every $100 increment of additional merchandise insurance desired above the standard $100 and up to $5,000 would be $1.00.

b. Express Mail Rate Structure

There would be no changes to the rate structure of Express Mail.

c. Express Mail Preparation Changes

There would be no changes to mail preparation requirements for Express Mail.

2. Priority Mail

a. Priority Mail Rate Highlights

Overall, Priority Mail rates would increase an average of 13.5%. Currently, the rate for the Priority Mail flat-rate envelope is the same as the 2-pound rate. The rate for the flat-rate envelope would be tied to the 1-pound rate because of the proposed rezoning of all rates from 2 to 5 pounds. The 1-pound rate would increase from $3.50 to $3.85 and remain an unzoned rate. The rate for the flat-rate envelope would decrease from the current $3.95 to the proposed rate of $3.85. The Priority Mail flat-rate envelope would continue to be the EP–14F envelope available from the Postal Service.

b. Priority Mail Rate Structure

Currently, Priority Mail rates are not zoned for pieces weighing 2 through 5 pounds, but they are zoned for pieces weighing more than 5 pounds. The weight increments from more than 1 pound and up to 5 pounds would be zoned to more accurately reflect actual costs to the Postal Service for transportation and handling.

c. Priority Mail Preparation Changes

There would be no changes to mail preparation requirements for Priority Mail.

3. First-Class Mail

a. First-Class Mail Rate Highlights

Overall, First-Class Mail rates would increase an average of 8.2%. The single-piece 1-ounce First-Class Mail rate would increase from $0.34 to $0.37, and the single-piece card rate from $0.21 to $0.23. The additional ounce rate for single-piece First-Class Mail would remain at $0.23. There would be a lower additional ounce rate for Presorted First-Class Mail.

Business mailers would see larger automation presort discounts. The carrier route automation discount and the nonautomation presort discount would remain at the current levels. The proposed increase in automation discounts and the proposed half-cent reduction in the additional-ounce rate would result in more attractive incentives, especially for large-volume First-Class Mail users who presort and mail heavier pieces.

b. First-Class Mail Rate Structure and Mail Preparation Changes

(1) Lower Additional Ounce for Presorted and Automation Rates

Currently, there is a single additional ounce rate for all pieces mailed at First-Class Mail rates. For presorted and automation pieces weighing more than 2 ounces, a heavy piece discount is deducted.

The Postal Service is proposing a lower additional ounce rate for First-Class Mail sent at Presorted and automation rates (including automation carrier route). Pieces mailed at single-piece rates would pay $0.23 for each additional ounce; pieces mailed at any discount rate would pay $0.225 for each additional ounce. This change would affect only postage rates; there would be no proposed eligibility or mail preparation changes.

(2) Automation Basic Rate Split Into Two New Rates

For automation cards and letters, the current rate structure contains a 5-digit, 3-digit, and basic rate. The proposed rate structure would split the basic rate into an automated area distribution center (AADC) rate (for all pieces in an AADC tray) and a mixed AADC rate (for all pieces in a mixed AADC tray). The AADC rate would also apply to pieces in a less-than-full origin 3-digit tray. In addition, the 3-digit sort level, which is currently required, would become optional. The first required sort level would be the AADC sort.

For automation flats, the current rate structure contains a 5-digit, 3-digit, and basic rate. The proposed rate structure would split the basic rate into an area distribution center (ADC) rate (for all pieces in an ADC package or tray) and a mixed ADC rate (for all pieces in a mixed ADC package or tray). The ADC rate also would apply to pieces in a less-than-full origin 3-digit tray. There are no proposed sortation changes for automation flats. The 5-digit sort level would still be optional; all other sort levels would be required.

(3) Format Changes for Card Rate Pieces

Formatting standards for pieces mailed at card rates are currently contained in the Domestic Mail Classification Schedule (DMCS). Specifically, the language includes prohibitions against perforations or tearing guides and restricts the kind and amount of nonaddress information (e.g., account information or billing codes) that can appear on the face of the card. Many utility companies and small businesses use postcards to send bills to customers. The Postal Service has received requests from these mailers to loosen and clarify these standards. However, because the language was contained in the DMCS, no DMM changes could be made without first revising the DMCS.

In Docket No. R2001–1, the Postal Service proposed to remove section 222.2, Restrictions, from the DMCS. Subsequently, DMM C100.2.0, which contains standards for physical construction and formatting of First-Class Mail cards, would be revised to accommodate the proposed DMCS change. The proposed DMM standards would offer more options to mailers for placing billing information on the face of the card.

Specifically, the new standards require address information to be placed within a certain space for cards claimed at the Presorted or automation card rates. Perforated cards would be required to maintain a minimum ratio of 50:50 (stock to perforations).

The Postal Service is proposing a 6-month phase-in period for mailers to comply with these format changes (see new section C100.2.8). After the phase-in period, Presorted and automation rate cards that do not meet the standards in C100.2.0 would not be eligible for card rates.

(4) Nonmachinable Surcharge

The definition of the current nonstandard surcharge would be expanded to include any physical

criteria that could make a mailpiece nonmachinable. Pieces that are nonmachinable are excluded from automated processing and must be handled manually. Nonmachinable pieces also may impede mail flow or damage the mail or mail processing equipment. Manual pieces are considerably more costly to process than machinable letters.

The proposed criteria for the nonmachinable surcharge for letter-size mail would be listed in DMM C050.2.2. The nonmachinable surcharge would apply to single-piece and Presorted rate letters that weigh 1 ounce or less and meet one or more of the criteria in that section.

The nonmachinable surcharge also would apply to single-piece, Presorted, and automation rate nonletters (flats and parcels) that weigh 1 ounce or less if any one of the following applies:

(a) The piece is greater than ¼-inch thick.

(b) The length is more than 11½ inches or the height is more than 6⅛ inches.

(c) The aspect ratio (length divided by height) is less than 1.3 or more than 2.5.

The nonmachinable surcharge would be $0.12 for single-piece rate pieces and $0.055 for Presorted and automation rate pieces.

The nonmachinable criteria in C050.2.2 would not apply to pieces mailed at any card rate.

The nonmachinable surcharge also would apply to letter-size pieces (including pieces mailed at the card rate) for which the mailer has chosen the manual only (''do not automate'') option.

This proposed change is consistent with the proposed nonmachinable surcharge for Standard Mail.

In conjunction with this change, trays of machinable and nonmachinable letters would be prepared and labeled differently. The preparation for machinable letters would be similar to the current preparation for upgradable letters (including the optional 5-digit sort level); the preparation for nonmachinable pieces would be similar to the current package-based preparation for Presorted letters. The current weight limit for upgradable letters (2.5 ounces) would be replaced with a weight limit of 3.3 ounces for machinable letters. Letters heavier than 3.3 ounces that are less than ¼-inch thick would use the nonmachinable preparation and labeling but would not pay the surcharge (because it would apply only to pieces that weigh 1 ounce or less).

On tray labels, the current ''NON BC'' designation would be replaced with one of two designations: ''MACH'' for machinable pieces or ''MANUAL'' for nonmachinable pieces. Although Presorted cards would not be subject to the surcharge, mailers would be required to show on the tray label whether or not those pieces are machinable (for instance, a double card that is not tabbed is nonmachinable). The ''MANUAL'' designation would help the Postal Service direct the trays of mail to the appropriate mail processing operation. Mailers who choose the ''do not automate'' option would show ''MANUAL'' on Line 2 of the tray label, as currently required.

Software vendors should note that, as proposed, machinable and nonmachinable (manual) letters will use different content identifier numbers (CINs).

There are no proposed preparation or labeling changes for Presorted flats or parcels subject to the surcharge.

Mail preparation instructions for Presorted letter-size pieces subject to the nonmachinable surcharge would be in DMM M130. Preparation instructions for automation flats subject to the nonmachinable surcharge would not change (see current DMM M820).

The nonmachinable surcharge would be assessed on any piece mailed out as a different class of mail and returned as First-Class Mail (for instance, Standard Mail endorsed ''Return Service Requested'') if the piece weighs 1 ounce or less and meets the criteria for nonmachinability in C050.2.2. Pieces returned at First-Class Mail card rates would not be subject to the nonmachinable surcharge.

The surcharge would take effect when the new rates are implemented, however, the Postal Service is proposing a 6-month phase-in period for these mail preparation and tray labeling changes.

(5) Delivery Confirmation and Signature Confirmation for First-Class Mail Parcels

The Postal Service would add two new special service options for First-Class Mail parcels: Delivery Confirmation and Signature Confirmation. Both services would be available in manual (retail) and electronic options. The fees for Delivery Confirmation would be $0.55 (retail) and $0.13 (electronic). The fees for Signature Confirmation would be $1.80 (retail) and $1.30 (electronic).

For the purposes of adding Delivery Confirmation and Signature Confirmation, a First-Class Mail parcel is defined as any piece:

(a) That has an address side with enough surface area to fit the delivery address, return address, postage, markings and endorsements, and special service label; and

(b) Is in a box or, if not in a box, is greater than ¾-inch thick at its thickest point.

This definition would provide mailers with different packaging options for their First-Class Mail parcels.

(6) Containerization and Labeling

For letter-size pieces, the definition of a full tray would change from the current threshold of 75% to 100%, with a range between 75% and 100%. The recommended default for presort software would be 85%. In addition, after the minimum volume for rate eligibility is reached (i.e., 150 pieces for a 3-digit area), overflow would be optional for all sort levels of letter trays. Also, mailers would be required to use as few trays as possible. Under current standards, a mailer could prepare one full 1-foot tray plus one less-than-full 1-foot tray; new standards would result in the preparation of a single less-than-full 2-foot tray.

On all First-Class Mail letter trays, ''LTRS'' would change to ''LTR'' and ''CR–RTS'' would change to ''CR–RT.'' This change would be necessary to allow more room for other information on the tray label.

(7) Documentation

Mailers would no longer be required to present a hard copy Form 3553, Coding Accuracy Support System (CASS) Summary Report, with their mailings. Instead, mailers or mailer agents would be required to keep this documentation on file for 1 year from the date of mailing and make it available to the Postal Service on 24-hour notice.

Software vendors and mailers should note that changes are proposed for manifest keyline rate codes (P910.3.0) and Multi-line Optical Character Reader (MLOCR) rate markings (P960.3.0) to reflect the new First-Class Mail rates.

4. Periodicals

a. Periodicals Rate Highlights

The overall proposed average increase for Periodicals would be 10%. Outside-County postage would increase on average 10.4%, while In-County postage would increase on average 1.7%. Automation discounts would increase at the 5-digit (from $0.025 to $0.03), 3-digit (from $0.035 to $0.041), and basic (from $0.042 to $0.048) presort levels. The destination delivery unit (DDU) discount would increase (from $0.017 to $0.018), while the destination sectional center facility (DSCF) discount would remain at $0.008. The proposed new

destination area distribution center (DADC) discount would be $0.002.

Original entry and additional entry application fees are proposed to increase from $350 to $375 and from $50 to $60, respectively, while the fees for reentry and news agent registry would remain at $40.

b. Periodicals Rate Structure and Mail Preparation Changes

(1) Proposed Changes

Proposed changes to the rate design for Periodicals are as follows:

(a) New DADC discounts for Outside-County and Science-of-Agriculture Periodicals that would be deducted from the pound and addressed per piece rates.

(b) A change that would limit destination rates and discounts to mail entered at destination facilities (DDU, DSCF, and DADC).

(c) A new per piece discount for each addressed nonletter-size piece (flat-size and irregular parcel) prepared in packages on pallets that contain at least 250 pounds of mail (except overflow pallets). This discount would apply to all pallet levels. The discount would not apply to pieces in sacks on pallets or in trays on pallets.

(d) In addition to the per piece pallet discount, a new destination entry per piece pallet discount would apply to each addressed piece of nonletter-size mail (flats and irregular parcels) prepared in packages on any destination entry pallet of at least 250 pounds of mail (except overflow pallets). The discount is not available for pieces in sacks or trays on pallets.

In conjunction with the nommachinable surcharge, it is proposed that any Periodical returned to the sender at First-Class Mail rates is subject to the nonmachinable surcharge if the piece weighs 1 ounce or less and meets any one of the nonmachinable criteria in C050.2.2.

(2) Periodicals Ride-Along

The Ride-Along experiment would become a permanent classification. There would be no proposed changes in the current standards for eligibility. However, publishers would no longer be required to complete a data collection questionnaire, provide a sample in addition to the marked copy, or submit an additional copy of Form 3541–X (postage statement). Form 3541–X would be discontinued and mailers would use Form 3541. The standards for Ride-Along would be relocated to new DMM E260. The Ride-Along rate would increase from $0.10 to $0.124 per piece.

(3) Containerization

For letter-size pieces, the definition of a full tray would change from the current threshold of 75% to 100%, with a range between 75% and 100%. The recommended default for presort software would be 85%. In addition, after the minimum volume for rate eligibility is reached (i.e., 150 pieces for a 3-digit area), overflow would be optional for all sort levels of letter trays. Also, mailers would be required to use as few trays as possible. Under current standards, a mailer could prepare one full 1-foot tray plus one less-than-full 1-foot tray; new standards would result in the preparation of a single less-than-full 2-foot tray.

In addition, the measurement for the minimum volume of trays on pallets would be measured in linear feet, not by the number of layers of trays.

(4) Documentation

Mailers would no longer be required to present a hard copy Form 3553, Coding Accuracy Support System (CASS) Summary Report, with their mailings. Instead, mailers or mailer agents would be required to keep this documentation on file for 1 year from the date of mailing and make it available to the Postal Service on 24-hour notice.

5. Standard Mail

a. Standard Mail Rate Highlights

Overall, Standard Mail rates would increase an average of 7.3%. On average, within each subclass, rates for flat-size mail would increase more than rates for letter-size mail. Regular rates would increase an average of 8% and nonprofit rates would increase an average of 6.7%. As proposed, greater destination entry discounts would provide an incentive for mailers to use their own or third-party transportation to move Standard Mail closer to the point of delivery.

b. Standard Mail Rate Structure and Mail Preparation Changes

(1) Automation Basic Letter Rate Split Into Two New Rates

For automation letter-size pieces, the current rate structure contains a 5-digit, 3-digit, and basic rate. The proposed rate structure would split the basic rate into an AADC rate (for all pieces in an AADC tray) and a mixed AADC rate (for all pieces in a mixed AADC tray). The AADC rate also would apply to all pieces in any less-than-full origin or entry 3-digit or 3-digit scheme tray. There are no proposed sortation changes for automation letter-size pieces. The 5-digit sort level would still be optional; all other sort levels would be required.

Unlike in First-Class Mail, where the proposed ADC and mixed ADC rates would apply to automation flats, there are no proposed changes to the rate structure for Standard Mail automation flats.

(2) Nonmachinable Surcharge

A nonmachinable surcharge is proposed for Standard Mail letter-size pieces; the definition would include any physical criteria that could make a mailpiece nonmachinable. Pieces that are nonmachinable are excluded from automated processing and must be handled manually. Nonmachinable pieces also may impede mail flow or damage the mail or mail processing equipment. Manual letters are considerably more costly to process than machinable letters.

The proposed criteria for nonmachinability for letter-size pieces are in DMM C050.2.2. The nonmachinable surcharge would apply to Presorted rate letter-size pieces (including cards) that weigh 3.3 ounces or less and meet one or more of the criteria in that section.

Unlike First-Class Mail, where the nonmachinable surcharge would also apply to flats, the Postal Service is not proposing to add a nonmachinable surcharge to Standard Mail flats. The Standard Mail rate structure includes separate rates for letters and nonletters and factors in the extra costs of handling nonmachinable nonletters.

The nonmachinable surcharge would be $0.04 per piece for regular rate pieces and $0.02 per piece for nonprofit rate pieces.

The nonmachinable surcharge also would apply to Presorted rate letter-size pieces for which the mailer has chosen the ''manual only'' (do not automate) option.

This proposed change is consistent with the proposed nonmachinable surcharge for First-Class Mail.

In conjunction with this change, trays of machinable and nonmachinable letters would be prepared and labeled differently. The preparation for machinable letters would mirror the current preparation for upgradable letters (including the optional 5-digit sort level). The preparation for nonmachinable pieces would mirror the current package-based preparation for Presorted letters. The current weight limit for upgradable letters (2.5 ounces) would be replaced with a weight limit of 3.3 ounces for machinable letters.

On tray labels, the current ''NON BC'' designation would be replaced with one of two designations: ''MACH'' for machinable pieces or ''MANUAL'' for nonmachinable pieces. The ''MANUAL''

designation would help the Postal Service direct the trays of mail to the appropriate mail processing operation. Mailers who choose the ''do not automate'' option would show ''MANUAL'' on Line 2 of the tray label, as currently required.

Software vendors should note that, as proposed, machinable and nonmachinable (manual) letters will use different content identifier numbers (CINs).

Mail preparation instructions for Standard Mail pieces subject to the nonmachinable surcharge are found in DMM M610.

In a mailing of nonmachinable letter-size pieces, residual pieces sent at First-Class Mail rates would be subject to the First-Class Mail nonmachinable surcharge only if the pieces weigh 1 ounce or less. Heavier pieces would not be subject to the First-Class Mail nonmachinable surcharge, even though those same pieces would have been subject to the Standard Mail nonmachinable surcharge if they had remained in the Standard Mail mailing. Additionally, residual pieces that are mailed at First-Class Mail card rates would not be subject to the nonmachinable surcharge.

Standard Mail pieces that are returned as First-Class Mail (for instance, an undeliverable piece endorsed ''Return Service Requested'') would be charged the nonmachinable surcharge if the piece weighs 1 ounce or less and meets the criteria for nonmachinability in C050.2.2. The nonmachinable surcharge also would be figured into the calculation for the weighted fee for pieces that weigh 1 ounce or less. The nonmachinable surcharge would not be charged on pieces returned at First-Class Mail card rates.

The surcharge would take effect when the new rates are implemented, however, the Postal Service is proposing a 6-month phase-in period for these mail preparation and tray labeling changes.

(3) Heavier Letters Are Eligible for Automation Rates

The maximum weight limit for automation letters would increase from 3.3 ounces to 3.5 ounces (inclusive). These pieces would be charged postage equal to the automation piece/pound rate for that piece and receive a discount equal to the automation nonletter piece rate (3.3 ounces or less) minus the corresponding automation letter piece rate (3.3 ounces or less) for the appropriate sort level. This change applies to regular and nonprofit automation letters.

For instance, each heavy automation letter sorted to a 5-digit tray would receive a discount equal to the 3/5 automation nonletter rate minus the 5-digit automation letter rate.

As an example, using the proposed postage rates, a regular automation letter weighing 3.4 ounces that is sorted in a 3-digit tray for DSCF entry would be charged:

Nonletter piece rate (more than 3.3 ounces), 3/5 rate	$0.115
Plus	
Nonletter pound rate (more than 3.3 ounces), 3/5 rate, DSCF entry (3.4 ounces divided by 16 ounces equals 0.2125 pounds, multiplied by $0.583 per pound) (rounding off to four decimal places)	0.1239
Equals	0.2389
Minus a discount that equals the 3/5 nonletter piece rate (3.3 ounces or less) for DSCF entry minus the 3-digit letter piece rate (3.3 ounces or less) for DSCF entry (0.235 minus 0.177)	−.058
Equals postage per piece	0.1809

This proposed change would allow mailers to avoid the substantial rate increase for letter-shaped pieces exceeding 3.3 ounces. Under the current rate schedule, once an automation letter exceeds the 3.3-ounce maximum weight, the piece become subject to the piece/pound rates.

There are no proposed mail preparation changes that accompany this change; these heavy letters would be required to meet the current standards for heavy automation letters in DMM C810.7.5 and would use the existing mail preparation sequence and labeling for automation letters. Mailers who choose to take this discount for heavy automation letters would be required to use a new postage statement to be designed for this purpose.

Current standards for mixed rate mailings would not change. Pieces from a heavy letter mailing that cannot be barcoded would be mailed at single-piece First-Class Mail rates or prepared as a Presorted Standard Mail letter mailing with postage paid at the piece/pound rate (for pieces over 3.3 ounces). Like today, these residual pieces would not need to meet a separate 200-piece or 50-pound minimum (see DMM E620.1.2).

(4) Barcode Requirement for ECR Letter-Size Pieces

Enhanced Carrier Route (ECR) letter-size pieces mailed at high-density and saturation per piece rates would be required to meet the physical standards for automation-compatible mail in DMM C810 and would be required to have a delivery point barcode. Pieces using simplified address would not be required to have a delivery point barcode, and therefore, would not need to meet the physical standards for automation-compatible mail.

This change would apply to both ECR and Nonprofit ECR.

Requiring high density and saturation letters to be barcoded would give the Postal Service operational flexibility and would eliminate the need to barcode these pieces before delivery point sequencing (DPS). The Postal Service updates its DPS sort plans daily. Therefore, any changes in route assignments between carriers are captured in the DPS process daily; mailers are permitted to use carrier route information that could be up to 90 days old.

The proposed automation-compatible requirement corresponds to the requirement for a delivery point barcode—for the Postal Service to read the barcode, the piece must be compatible with automated mail sorting equipment. These requirements would not apply to detached address labels (DALs) that accompany flat-size pieces or irregular parcels. Even though the DAL itself is letter-sized, technically it is the label for the larger piece.

Pieces that do not meet the physical standards in C810 or that do not contain a delivery point barcode would be subject to the corresponding ECR high density or saturation nonletter rate. Pieces that are letter-size but claimed at the nonletter rates would be marked, sorted, and trayed as letters. Mailers

also would have the option to pay the ECR basic letter rate (for which barcodes are not required).

There are no proposed changes to the sequencing requirements, markings, or sortation for ECR pieces. Tray labels would change to reflect whether the pieces in the tray are barcoded (''BC''), not barcoded but machinable (''MACH''), or nonmachinable, regardless of whether the pieces are barcoded (''MANUAL'' or ''MAN''). These designations help the Postal Service direct the trays of mail to the appropriate mail processing operation. Mailers would be required to use barcoded tray labels.

Pieces mailed with a simplified address format do not contain the necessary address elements to generate a delivery point barcode for that address. To qualify for the high density or saturation letter rates, those pieces would not have to bear a delivery point barcode, would not have to be automation-compatible, and would be labeled ''MAN'' (even if the pieces are automation-compatible).

Pieces mailed with an exceptional or occupant address format (A040) do contain the enough address elements to generate a delivery point barcode, and therefore, must be automation-compatible and must have a delivery point barcode in order to claim the high density or saturation letter rates.

Software vendors should note that, as proposed, within each of the three processing categories, the same content identifier number (CIN) would be used for all direct carrier route trays (full trays of mail for a single carrier route).

Mailers would not be permitted to combine barcoded and nonbarcoded pieces into the same mailing. As an example, a mailer has 200 pieces to a single carrier route but was able to barcode only 175 of those pieces. The barcoded pieces would be placed in a direct carrier route tray and would qualify for the saturation letter rate. The remaining 25 nonbarcoded pieces would qualify for the saturation nonletter rate (saturation because the density requirement has been met, nonletter because the pieces do not meet the new barcode requirement) but cannot be placed in the direct carrier route tray. Instead, the nonbarcoded pieces would be packaged in walk sequence and placed in a 5-digit carrier routes tray or a 3-digit carrier routes tray with other carrier route packages of nonbarcoded mail. It is possible that, for a single 5-digit destination, a mailer could create two 5-digit carrier routes trays: one that contains packages of barcoded mail, and one that contains packages of nonbarcoded mail.

The new requirements for high density and saturation letters would take effect when the new rates are implemented; however, the Postal Service is proposing a 6-month phase-in period for the tray label changes.

A minor change would be made to the wording in the DMM for how to qualify for high density rates. Currently, there are two ways to meet the density requirement: there must be at least 125 pieces for a single carrier route or, if there are fewer than 125 possible deliveries on the route, a piece must be addressed to every delivery on the route. To qualify for saturation rates, pieces must be addressed to at least 90% of the active residential deliveries or at least 75% of the total active deliveries. If a customer is meeting the high density standard by addressing a piece to each possible delivery (100%), then they also would qualify for saturation rates under either the 90% standard or the 75% standard, and would of course claim the lower saturation rate. Therefore, because no mailer would ever choose to qualify for the high density rate via the 100% standard, it would be eliminated.

(5) Heavier ECR Saturation and High Density Letters Are Eligible for Letter Rates

The maximum weight limit for automation-compatible ECR letters would increase from 3.3 ounces to 3.5 ounces (inclusive). These pieces would be charged postage equal to the nonletter piece/pound rate for that piece and receive a discount equal to the nonletter piece rate (3.3 ounces or less) minus the corresponding letter piece rate (3.3 ounces or less) for the appropriate sort level. This proposed change would apply to regular and nonprofit ECR saturation and high density letters.

For regular ECR, the discount would be $0.005 per piece for high density letters and $0.008 per piece for saturation letters. For nonprofit ECR, the discount would be $0.008 per piece for high density letters and $0.009 per piece for saturation letters.

This change also would apply to pieces mailed at the ECR automation basic rate, but the calculation is slightly different because there are no corresponding nonletter rates with which to perform the calculation. These pieces would be charged postage equal to the basic nonletter piece/pound rate and receive a discount equal to the basic letter rate minus the automation basic letter rate. For regular ECR, the discount would be $0.023 per piece. For nonprofit ECR, the discount would be $0.015 per piece.

In this proposal, all pieces mailed at high density and saturation letter rates will be automation-compatible; therefore, this change is consistent with the proposed change for regular Standard Mail heavy automation letters. This change would not apply to letter-size pieces that are mailed at the nonletter rates (because they are not automation compatible or do not have a barcode).

This change would not apply to pieces mailed at the ECR basic letter rate (because the letter and nonletter rates are the same, there would be no discount to subtract) or to pieces mailed at the ECR automation basic letter rate (because there are no corresponding nonletter rates with which to perform the rate calculation) (see R600.2.0 and R600.4.0).

As an example, using the proposed postage rates, a high density letter weighing 3.4 ounces that is prepared for DSCF entry would be charged:

Nonletter piece rate (more than 3.3 ounces), high density	$0.043
Plus	
Nonletter pound rate (more than 3.3 ounces), high density, DSCF entry (3.4 ounces divided by 16 ounces equals 0.2125 pounds, multiplied by $0.485 per pound) (rounded off to four decimal places)	0.1031
Equals	0.1461
Minus a discount that equals the high density nonletter piece rate (3.3 ounces or less) for DSCF entry minus the high density letter piece rate (3.3 ounces or less) for DSCF entry (0.143 minus 0.138)	−.005
Equals postage per piece	$0.1411

This proposed change would allow mailers to avoid the substantial rate increase for letter-shaped pieces exceeding 3.3 ounces. Under the current rate schedule, once an ECR letter exceeds the 3.3-ounce maximum weight, the pieces become subject to the piece/pound rates.

There are no proposed mail preparation changes that accompany this change; these heavy letters would be required to meet the current standards for heavy automation letters in DMM C810.7.5 and would use the existing mail preparation sequence and labeling for ECR letters. Mailers who choose to take this discount for heavy letters would be required to use a new postage statement to be designed for this purpose.

(6) Containerization and Labeling

For letter-size pieces, the definition of a full tray would change from the current threshold of 75% to 100%, with a range between 75% and 100%. The recommended default for presort software would be 85%. In addition, after the minimum volume for rate eligibility is reached (i.e., 150 pieces for a 3-digit area), overflow would be optional for all sort levels of letter trays. Also, mailers would be required to use as few trays as possible: Under current standards, a mailer could prepare one full 1-foot tray plus one less-than-full 1-foot tray; new standards would result in the preparation of a single less-than-full 2-foot tray.

In addition, the minimum volume of trays on pallets would be measured in linear feet, not by the number of layers of trays.

On all Standard Mail letter trays, ''LTRS'' would change to ''LTR'' and ''CR–RTS'' would change to ''CR–RT.'' This change would be necessary to allow more room for other information on the tray label.

(7) Documentation

Mailers would no longer be required to present a hard copy Form 3553, Coding Accuracy Support System (CASS) Summary Report, with their mailings. Instead, mailers or mailer agents would be required to keep this documentation on file for 1 year from the date of mailing and make it available to the Postal Service on 24-hour notice.

Software vendors and mailers should note that changes are proposed for manifest keyline rate codes (P910.3.0) and Multi-line Optical Character Reader (MLOCR) rate markings (P960.3.0) to reflect the new Standard Mail rates.

6. Package Services

There are four subclasses of Package Services: Parcel Post, Bound Printed Matter, Media Mail, and Library Mail. Each subclass is addressed separately in items 7 through 10.

7. Parcel Post

a. Parcel Post Rate Highlights

Parcel Post rates would increase an average of 10%. The nonmachinable surcharge for Inter-BMC Parcel Post would increase from $2.00 to $2.75 per parcel. The Intra-BMC and DBMC nonmachinable surcharges would remain at their current levels: $1.35 for Intra-BMC parcels and $1.45 for DBMC parcels. The Parcel Post Origin BMC Presort and BMC Presort discounts would increase from $0.90 to $1.17 and $0.23 to $0.28 per piece, respectively. The barcoded discount for qualifying Parcel Post (including Parcel Select) machinable parcels would remain at $0.03 per piece.

b. Parcel Post Rate Structure

Two changes are proposed. First, Parcel Select pieces would be eligible for no-fee electronic Delivery Confirmation. The other change would create a DSCF rate for nonmachinable parcels sorted to 3-digit ZIP Code prefixes and entered at destination SCFs. The pieces would be charged a surcharge of $1.09 per parcel in addition to the applicable DSCF rate.

c. Parcel Post Mail Preparation Changes

Except for a new 3-digit nonmachinable parcel preparation option added for DSCF rate mail, there would be no other changes to the preparation requirements for Parcel Post and Parcel Select.

8. Bound Printed Matter

a. Bound Printed Matter Rate Highlights

The Bound Printed Matter (BPM) rates would increase an average of 9.1%. Destination entry mailings would be eligible for discounts that encourage the deposit of mail at the destination BMC, SCF, or delivery unit. There are two major changes to BPM rates: Separate rates for BPM flats and parcels, and a new POSTNET barcoded discount for single-piece rate and presorted rate BPM flats. The parcel barcoded discount for presorted rate BPM single-piece and presorted rate machinable parcels would remain at $0.03 per piece.

b. Bound Printed Matter Rate Structure

Rates for flat-size BPM would be lower than the rates for BPM parcels in all three rate categories (single-piece, presorted, and carrier route) and in the three available destination entry rates (DDU, DSCF, and DBMC). A $0.03 discount would be available for single-piece and presorted rate BPM flats prepared with a POSTNET barcode. To qualify for the barcoded discount, BPM flats would be required to meet the standards in DMM C820 for flat sorting machine (FSM) 881 processing.

c. Bound Printed Matter Mail Preparation Changes

BPM barcoded flats would be prepared using the standards in DMM M820.

9. Media Mail

a. Media Mail Rate Highlights

Media Mail rates would increase an average of 4%.

b. Media Mail Rate Structure

There would be one fundamental change to the Media Mail rate structure. The 5-digit rate would be retained, but the BMC rate would be renamed the basic rate.

c. Media Mail Preparation Changes

There would be two changes to the preparation requirements for Media Mail. The BMC sort level would be renamed the basic sort level. This change would allow the Postal Service to adjust the presort requirements for Media Mail to reflect current processing. Machinable parcels would continue to be presorted to BMCs using the new basic rate level.

The second change would eliminate the requirement for separate minimum volumes for each presort level and would reduce the minimum volume requirement for a mailing from 500 to 300 pieces. To qualify for presorted Media Mail, mailers would be required to have a minimum of 300 properly prepared and presorted pieces. Pieces in the mailing that meet 5-digit rate requirements would be eligible for the 5-digit rate. The remaining pieces in the mailing would be eligible for the basic rate.

10. Library Mail

a. Library Mail Rate Highlights

Library Mail rates would increase an average of 3.3%.

b. Library Mail Rate Structure

There would be one fundamental change to the Library Mail structure. The 5-digit rate would be retained, but the BMC rate would be renamed the basic rate.

c. Library Mail Preparation Changes

There would be two changes to the preparation requirements for Library

Mail. The BMC sort level would be renamed the basic sort level. This change would allow the Postal Service to adjust the presort requirements for Library Mail to reflect current processing. Machinable parcels would continue to be presorted to BMCs using the new basic rate level.

The second change would eliminate the requirement for separate minimum volumes for each presort level and would reduce the minimum volume requirement for a mailing from 500 to 300 pieces. To qualify for presorted Library Mail, mailers would be required to have a minimum of 300 properly prepared and presorted pieces. Pieces in the mailing that meet the 5-digit rate requirements would be eligible for the 5-digit rate. The remaining pieces in the mailing would be eligible for the basic rate.

11. Special Services and Other Services

a. Special Services Highlights

(1) Bulk Parcel Return Service (DMM S924)

The annual accounting fee for bulk parcel return service (BPRS) would increase from $375 to $475. The annual permit fee would increase from $125 to $150 and the per piece charge would increase from $1.62 to $1.80. See DMM R900.3.0.

(2) Business Reply Mail (DMM S922)

The per piece charge for high volume Qualified Business Reply Mail (QBRM) with the optional quarterly fee would decrease from $0.01 to $0.008. The QBRM quarterly fee of $1,800 for that category would remain the same. The basic QBRM per piece charge for the category without the optional quarterly fee would increase from $0.05 to $0.06. The annual permit fee for all business reply mail (BRM) would increase from $125 to $150. The monthly fee for bulk weight averaged nonletter-size BRM would increase from $600 to $750, while the per piece charge would remain the same. The annual accounting fee for advanced deposit accounts would increase from $375 to $475. The regular BRM per piece charge without an annual accounting fee would increase from $0.35 to $0.60 per piece. See DMM R900.4.0.

(3) Certificate of Mailing (DMM S914)

Certificate of mailing fees would increase. For individual pieces, the original certificate would increase from $0.75 to $0.90, the firm mailing book (Form 3877) would increase from $0.25 to $0.30 for each piece listed, and the charge for a duplicate copy would increase from $0.75 to $0.90.

For bulk pieces (Form 3606), fees for the first 1,000 pieces or fraction thereof would increase from $3.50 to $4.50. Each additional 1,000 pieces or fraction thereof would increase from $0.40 to $0.50, and the charge for a duplicate copy would increase from $0.75 to $0.90. Additional mailpieces listed on Form 3877 and having postage paid with a permit imprint would be permitted to pay the certificate of mailing fee using a permit imprint account. See DMM R900.6.0.

(4) Certified Mail (DMM S912)

The certified mail fee would increase from $2.10 to $2.30. A new service enhancement would be introduced to allow mailers to access delivery information for certified mail over the Internet at www.usps.com by providing the certified article number. See DMM R900.7.0.

(5) Collect on Delivery (DMM S921)

There would be no change to the current collect on delivery (COD) fees. See DMM R900.8.0.

(6) Delivery Confirmation (DMM S918)

Retail (manual) and electronic Delivery Confirmation options would be extended to First-Class Mail parcels. For Package Services, Delivery Confirmation would be restricted to parcels only and would no longer be available for flat-size mail. For First-Class Mail parcels, the fee would be $0.13 for the electronic option and $0.55 for the retail option. The fee for the retail option for Priority Mail would increase from $0.40 to $0.45. For Standard Mail, the fee for the electronic option would increase from $0.12 to $0.13. For Parcel Select, the electronic option would be included in postage. For all other Package Services, the fee would increase from $0.12 to $0.13 for the electronic option and from $0.50 to $0.55 for the retail option. See DMM R900.9.0.

For the purposes of adding Delivery Confirmation, a parcel would be defined as any piece that has an address side with sufficient surface area to fully display the delivery address, return address, postage, markings and endorsements, and the Delivery Confirmation label. The parcel would be required to be in a box, or if not in a box, would be required to be more than ¾-inch thick at its thickest point.

(7) Express Mail Insurance (DMM S500)

Insurance coverage included with Express Mail service would be lowered from $500 to $100. Incremental fees would be applied at $1.00 per each $100 of desired merchandise insurance coverage over $100. Document reconstruction maximum liability would decrease from $500 to $100. See DMM R900.11.0.

(8) Insurance (DMM S913)

The fee for unnumbered insurance of up to $50 (no insured number applied) would increase from $1.10 to $1.30. The fee for numbered insurance service over $50 and up to $100 (insured number applied) would increase from $2.00 to $2.20. The incremental fee of $1.00 for each $100 in value over $100 and up to $5,000 would remain the same. See DMM R900.12.0.

(9) Merchandise Return Service (DMM S923)

The annual accounting fee for merchandise return service would increase from $375 to $475. The annual permit fee would increase from $125 to $150. See DMM R900.14.0.

(10) Money Orders (DMM S020)

There would be two classification changes for money orders. The first change would increase the maximum amount from $700 to $1,000 for both domestic and APO/FPO money orders. The second change would introduce a two-level fee structure for domestic money orders. The fee for amounts of $0.01 to $500 would be $0.90, and the fee for amounts of $500.01 to $1,000 would be $1.25. The inquiry fee would increase from $2.75 to $3.00. The fee for APO/FPO money orders would remain the same. See DMM R900.16.0.

(11) Parcel Airlift (DMM S930)

Parcel Airlift (PAL) fees would increase. For parcels weighing not more than 2 pounds, the fee would increase from $0.40 to $0.45. For parcels not more than 3 pounds, the fee would increase from $0.75 to $0.85. For parcels not more than 4 pounds, the fee would increase from $1.15 to $1.25. For parcels over 4 pounds but not more than 30 pounds, the fee would increase from $1.55 to $1.70. See DMM R900.17.0.

(12) Registered Mail (DMM S911)

All registered mail fees would increase. The fee for registered mail without insurance would increase from $7.25 to $7.50. The incremental fee for registered mail with insurance per declared value level would increase from $0.75 to $0.85. The handling charge per $1,000 in value or fraction thereof for items valued over $25,000 also would increase from $0.75 to $0.85. A new service enhancement would be introduced to allow mailers to access delivery information for registered mail over the Internet at www.usps.com by

providing the registered article number. See DMM R900.21.0.

(13) Restricted Delivery (DMM S916)

The fee for restricted delivery would increase from $3.20 to $3.50. See DMM R900.22.0.

(14) Return Receipt (DMM S915)

The fee for regular return receipt service would increase from $1.50 to $1.75. The fee for return receipt after mailing would decrease from $3.50 to $3.25. A new service option would offer an electronic return receipt that includes delivery information and a copy of the signature to mailers who furnish an e-mail address at the point of purchase or preregister on the Internet at www.usps.com (available Fall 2002). Mailers would also have the option to purchase a return receipt after mailing over the Internet using a credit card (available Fall 2002). The new electronic return receipt fee would be $1.30. See DMM R900.23.0.

(15) Return Receipt for Merchandise (DMM S917)

The fee for return receipt for merchandise would increase from $2.35 to $3.00. See DMM R900.24.0.

(16) Signature Confirmation (DMM S919)

Retail (manual) and electronic Signature Confirmation options would be extended to First-Class Mail parcels. For Package Services, Signature Confirmation would be restricted to parcels only and would no longer be available for flat-size mail. For First-Class Mail parcels, the fee would be $1.30 for the electronic option and $1.80 for the retail option. The fee for the retail option for Priority Mail would increase from $1.75 to $1.80. For Package Services parcels, the fee would increase from $1.25 to $1.30 for the electronic option and from $1.75 to $1.80 for the retail option. See DMM R900.26.0.

For the purposes of adding Signature Confirmation, a parcel would be defined as any piece that has an address side with sufficient surface area to fully display the delivery address, return address, postage, markings and endorsements, and the Signature Confirmation label. The parcel would be required to be in a box, or if not in a box, would be required to be more than ¾-inch thick at its thickest point.

(17) Special Handling (DMM S930)

The fees for special handling would increase from $5.40 to $5.95 for pieces weighing up to 10 pounds and from $7.50 to $8.25 for pieces weighing over 10 pounds. See DMM R900.27.0.

b. Other Services Highlights

(1) Address Correction Service (DMM F030)

The fee for manual address correction service (ACS) notices would increase from $0.60 to $0.70. The fee for automated ACS would remain the same at $0.20. See DMM R900.1.0.

(2) Address Sequencing Service (DMM A920)

The fee for carrier sequencing of address cards service would increase from $0.25 to $0.30 per card. See DMM R900.2.0.

(3) Caller Service (DMM D920)

The caller service fee for each separation provided per semiannual period would increase from $375 to $412. The fee for each reserved call number per calendar year would increase from $30 to $32. See DMM R900.5.0.

(4) Mailing List Service (DMM A910)

The charge for correction of mailing lists would increase from $0.25 to $0.30 per correction. The minimum per list charge also would increase from $7.50 to $9.00 per list. The charge for sortation of mailing lists on cards into groups labeled by 5-digit ZIP Code would increase from $73 to $100. The charge for address changes for election boards would increase from $0.23 to $0.27. See DMM R900.13.0.

(5) Meter Service (DMM P030)

The fee for on-site meter service (per employee, per visit) would increase from $31 to $35. The fee for meter resetting and/or examination would increase from $4.00 to $5.00 per meter. The fee for check in/out of service (per meter) would remain the same. See DMM R900.15.0.

(6) Permit Imprint (DMM P040)

The permit imprint application fee would increase from $125 to $150.

(7) Pickup Service (DMM D010)

The fee for pickup service, available for Express Mail, Priority Mail, and Parcel Post, would increase from $10.25 to $12.50 (per pickup). See DMM R900.18.0.

(8) Post Office Box Service (DMM D910)

Overall, post office (PO) box fees would increase. A new PO box fee category would be introduced for PO box service in the lowest-cost cities and highest-cost rural areas. This new fee group would provide a bridge to eventually move high-cost and low-cost ZIP Codes toward more appropriate fee assignments. PO box key duplication or replacement (after first two keys) would increase from $4.00 to $4.40 each. PO box lock replacement would increase from $10 to $11.

There would be no proposed change to no-fee PO box service (Group E). See DMM R900.20.0.

(9) Shipper Paid Forwarding (DMM F010)

The accounting fee would increase from $375 to $475. See DMM R900.25.0.

(10) Stamped Cards and Stamped Envelopes

The fee for stamped cards would remain the same. Special stamped envelopes (i.e., those with holograms or patch-in stamps) are no longer offered. The fees for the other types of available stamped envelopes would remain the same.

Part B—Summary of Changes to the Domestic Mail Manual

The following information details the R2001–1 proposed changes organized by DMM module. This information is intended as an overview only and should not be viewed as defining every proposed DMM revision. The actual proposed DMM changes appear in this notice after Part B.

A Addressing

A010 would be amended to remove information about upgradable mail (already included in C830) and to move Exhibit 4.5 to C830.1.0.

The title of A800 would be changed to show the standards apply to all automation-compatible mail, not just mail claimed at automation rates.

A950 would be revised to clarify that the mailer's signature on a postage statement certifies the mail meets the requirements for the rates claimed and to change the requirements for filing Form 3553, Coding Accuracy Support System (CASS) Summary Report. Mailers would no longer be required to submit Form 3553 with each mailing. They would have to retain the form on file for 1 year from the date of mailing and make it available to the Postal Service on 24-hour notice.

C Characteristics and Content

C010 would be amended to show that Standard Mail ECR pieces are subject to the standards for mailpiece dimensions and to remove information about the First-Class Mail nonstandard surcharge. C050 would be amended to add the nonmachinable criteria for letters.

Exhibit C050.2.0 would be renumbered as Exhibit C050.1.0.

C100.2.0 would be revised to implement proposed changes to the Domestic Mail Classification Schedule (DMCS) for pieces mailed at First-Class Mail card rates. This DMCS change would clarify the standards for physical construction, formatting, and addressing for card rate pieces. C100.4.0 would be revised to reflect changes to the nonmachinable surcharge (formerly the nonstandard surcharge) for some First-Class Mail letters and flats.

C810 would be amended to remove references to upgradable First-Class Mail and Standard Mail, to increase the weight limit for Standard Mail automation and ECR letters to 3.5 ounces, and to clarify that signing a postage statement certifies the mail meets the requirements for the rates claimed.

C820 would be amended to add a weight limit for Bound Printed Matter flats claimed at automation flat rates.

C840 would be amended to remove references to add barcode standards for ECR saturation and high density pieces and to remove references to upgradable mail.

D Deposit, Collection, and Delivery

D210.3.4 would be amended to reflect the change that the destination sectional center facility (DSCF) rate would apply to eligible mail entered at the DSCF under exceptional dispatch. D210.4.0 would be revised to show that the DSCF rate would not apply to mail entered at airport mail facilities (AMFs).

The provisions for Periodicals contingency entries would be deleted in D230.2.2 and 4.6.

D500 would be amended to include several additional provisions that affect postage refund requests for Express Mail when the service guarantee is not met.

E Eligibility

E100

E110.3.0 would be amended to implement changes to the Domestic Mail Classification Schedule (DMCS) for pieces mailed at First-Class Mail card rates.

E120.2.2 would be amended to change the current Priority Mail flat rate priced at the 2-pound rate to the new 1-pound rate, regardless of the weight of the material placed in the flat-rate envelope. E120.2.4 reflects changes to the correct postage for keys and identification devices. When they weigh more than 13 ounces but not more than 1 pound, they would be returned at the 1-pound rate plus the fee shown in R100.10.0. Keys and identification devices that weigh more than 1 pound but not more than 2 pounds would be charged at the 2-pound Priority Mail rate plus the fee in R100.10.0.

E130 would be amended to show that the nonmachinable surcharge would apply to keys and identification devices, certain letter-size and flat-size pieces mailed at single-piece and Presorted rates, and all pieces where the mailer chooses the ''manual only'' (do not automate) preparation option. It also would be amended to clarify that signing a postage statement certifies the mail meets the requirements for the rates claimed.

E140 would be amended to reorganize the information about rate application into two separate sections: one for cards and letter-size mail (2.0) and one for flat-size mail (3.0). E140.2.0, Rate Application for Cards and Letters, would be amended to replace the basic rate with the new AADC and mixed AADC rates. E140.3.0, Rate Application for Flats, would be amended to replace the basic rate with the new ADC and mixed ADC rates and to clarify the definition of a piece that is subject to the nonmachinable surcharge. E140 would be amended to clarify that signing a postage statement certifies the mail meets the requirements for the rates claimed.

E200

E217.1.0 and 3.0 would be amended to reflect references to the new destination area distribution center (DADC) rates and discounts for Outside-County and Outside-County Science-of-Agriculture rates. E217.5.0 would be restructured for clarity and amended to include standards for the new per piece pallet and per piece destination entry pallet discounts.

The standards for combining multiple publications or editions in E220.3.0 and E230.4.0 would be consolidated into new M230. E220 and E240 would be amended to clarify that signing a postage statement certifies the mail meets the requirements for the rates claimed.

The proposal amends E250 by adding a new 1.0 that provides standards for new DADC rate eligibility, and renumbering former 1.0 (DSCF) and 2.0 (DDU) as 2.0 and 3.0, respectively. New E250.2.0 would reflect the change requiring DSCF rate mail to be entered at the SCF or another postal-designated facility. It is proposed to further amend E250.2.0 to clarify that DSCF rates do not apply to mail placed in an ADC, AADC, mixed ADC or mixed AADC sack or tray, or on an ADC or mixed ADC pallet.

New E260 (former G094) would describe the standards for the Periodicals Ride-Along classification and rate, which is proposed to become a permanent classification. All of G094 would be moved except for 2.0 and 3.0. Former 2.0, which contains rate information, would appear as part of R200. Former 3.0 would be deleted, as publishers would no longer be required to submit additional documentation with Ride-Along mailings.

E500

E500 would be amended to change the current 2-pound Express Mail flat rate to the new ½-pound rate regardless of the weight of the material placed in the flat-rate envelope.

E600

E610.8.0 would be amended to remove references to upgradable Standard Mail.

E620 would be amended to remove references to upgradable mail and to show that the nonmachinable surcharge may apply to letter-size pieces that weigh 3.3 ounces or less and to all pieces where the mailer chooses the ''manual only'' (do not automate) option. New language would be added to explain the discount for automation-compatible pieces that weigh between 3.3 and 3.5 ounces.

E630 would be reorganized for clarity. Standards would be added to show that letter-size pieces mailed at saturation and high density letter rates must be automation-compatible and must have a delivery point barcode.

E640 would be amended to replace the basic automation letter rate with the new AADC and mixed AADC rates and to add the discount for automation letters that weigh between 3.3 and 3.5 ounces. E640.2.0 would be amended to add the discount for ECR basic automation letters that weigh between 3.3 and 3.5 ounces.

E620 and E640 would be amended to clarify that signing a postage statement certifies the mail meets the requirements for the rates claimed.

E700

E712.1.1b would be revised to add a weight limit for BPM flats claiming the barcoded discount. E712.1.4, which excluded BPM flats from eligibility to receive an automation rate, would be removed. E712.2 would be amended to add a new standard for BPM automation flats. E712.2.0e would be added to include a barcoded discount for automation flats. E712.3.0 would be amended to clarify that the mailer's signature on the postage statement

certifies the mail meets the requirements for the rates claimed.

E713 and E714 would be revised in their entirety to reflect the format used for BPM in E712, E713 and E714 would be amended to change references from ''BMC rate'' to ''basic rate'' and from ''500 pieces'' to ''300 pieces.'' E713 and E714 would be revised to allow preparation of Media Mail and Library Mail mailings with two presort levels.

E751.1.1 would be amended to add provisions to require mail on pallets for 3-digit ZIP Code prefixes to be entered at the SCF. E751.1.4a would be amended to clarify that nonmachinable parcels sorted to 3-digit ZIP Code prefixes must be entered at a designated SCF. In E751.2.2c, d, and e, references would be added to allow the preparation of ''3-digit sacks'' and ''3-digit pallets.'' E751.5 and E753 would be amended to change the references from ''BMC rate'' to ''basic rate.''

F Forwarding and Related Services

F010.4.0 would be amended to remove references to nonstandard mail. F010.5.2 would be amended to show the nonmachinable surcharge can be charged on Periodicals returned at First-Class Mail single-piece rates. F010.5.3 would be amended to show the First-Class Mail single-piece nonmachinable surcharge is included in the calculation of the weighted fee for returned pieces and is charged on some returned Standard Mail pieces. F010.6.0 would be amended to include these same changes.

F030.1.6 would be amended to clarify the circumstances under which address notices are not provided by the Postal Service.

G General Information

G091.4.0 would be revised to clarify that First-Class Mail automation letter-size pieces and parcels, First-Class automation cards, Standard Mail automation letter-size pieces, and Standard Mail Nonprofit automation letter-size pieces, using NetPost Mailing Online would be eligible for the mixed AADC rate. First-Class Mail automation flat-size pieces and parcels would be eligible for the mixed ADC rate. Flat-size pieces at the regular and nonprofit Standard Mail automation rates would be eligible for the basic rates. First-Class Mail that is not eligible for any automation rate would be subject to the applicable single-piece rates.

The Ride-Along classification in G094 would be made a permanent classification. Therefore, the standards currently in G094 would be relocated to new E260.

L Labeling Lists

The titles and summaries, as appropriate, of labeling lists L001, L800, L802, and L803 would be amended to reflect new mail preparation options.

Note: New labeling list L006 and the accompanying 5-digit metro pallet sort for packages of flats is effective on March 31, 2002. Notice of this change was published in Postal Bulletin 22066 (12–27–01).

M Mail Preparation and Sortation

M000

M011.1.3 would be amended to show that a full letter tray is defined as one that is between 75% and 100% full. M011.1.4 would be amended to remove references to upgradable mailings, to show that machinable and nonmachinable pieces cannot be part of the same mailing, and to show that ECR letter pieces cannot be part of the same mailing as nonletter rate pieces. M012.2.0 would be revised to update information about MLOCR markings. M012.3.3 would be revised to include additional rate markings for BPM presorted automation flats and BPM carrier route flats. M012.4.5 would be deleted to remove references to upgradable mail.

The summary for M020 would be amended to include references to Media Mail and Library Mail. M020.1.6 would be amended to add Media Mail and Library Mail in the package size requirements. In addition, the maximum weight for packages in sacks would be 20 pounds unless otherwise noted, and packages of BPM automation flats would have to meet the preparation requirements in M820. M020.2.0 would be amended to include additional standards for packaging Media Mail and Library Mail. M020.2.1 would be amended to remove references to the upgradable preparation for First-Class Mail and Standard Mail and to show that nonmachinable and ''manual only'' pieces must be packaged. M020.2.2 would be amended to require that Media Mail and Library Mail pieces meet specific weight limits when placed in sacks or on pallets.

The container labeling requirements in M031.5.0 would be amended to revise the Line 2 code for ''carrier routes,'' ''letters,'' and ''machinable'' and to add a new Line 2 code for ''manual.'' Exhibit M032.1.3a would be amended to change the content identifier number (CIN) codes for the new machinable and nonmachinable preparation for First-Class Mail and Standard Mail letter-size pieces. The exhibit also would be amended to add new CIN codes for Standard Mail ECR letters and designate CIN codes for certain Package Services flat-size pieces. M033.2.0 would be amended to clarify standards for filling letter trays.

M041.5.0 and M041.5.6 would be amended to show that the minimum volume for letter trays on pallets is measured in linear feet, not by the number of layers of trays on the pallet. M041.5.5 would be amended to clarify the maximum load of a pallet. M045.3.2 would be amended to show that pallets of carrier route mail must show whether the mail is barcoded, machinable, or manual. M045.3.3 through M045.3.5 would show revised titles, including Media Mail and Library Mail. M045.6.0 would be removed and included in aforementioned sections. M050.4.1 would be amended to show that signing a postage statement certifies that the mail meets the requirements for the rates claimed.

M100

M130 would be substantially revised to show the packaging, traying, and labeling standards for machinable, nonmachinable, and ''manual only'' letter-size mail.

M200

To reduce redundancy, the standards for combining multiple publications or editions in M210.6.0 and M220.6.0 would be consolidated and relocated in new M230.

M600

M610 would be substantially revised to show the packaging, traying, and labeling standards for machinable, nonmachinable, and ''manual only'' letter-size mail. M630 would be revised to show the new Line 2 labeling for trays of ECR letter-size pieces.

M700

M710.2.1 would be revised to add provisions for a 3-digit sort level for nonmachinable parcels claiming DSCF rates.

M730 and M740 would be amended to change references from ''BMC rate'' to ''basic rate.'' M730 and M740 would also be amended to include separate preparation standards for Media Mail and Library Mail flats, irregular parcels, and machinable parcels.

M800

M810.1.0 would be amended to replace references to the automation basic rate for letter-size pieces with the new AADC and mixed AADC rates. M810.2.0 would be amended to show the new Line 2 labeling formats for First-Class Mail and Standard Mail automation letters.

M820.1.0 would be amended to replace references to the automation basic rate for flat-size pieces with the new ADC and mixed ADC rates. M820.6.1 would be revised to provide packaging and sacking standards for flat-size pieces eligible for the Bound Printed Matter automation rates.

P Postage and Payment Methods

P000

P011.1.0 would be amended to reflect that the nonstandard surcharge would be replaced with the new nonmachinable surcharge. P012.2.0 would be amended to add new rate level abbreviations for the AADC, ADC, mixed AADC, and mixed ADC rates. P012.3.0 would be amended to reflect references to the new DADC rate for Periodicals.

P013.2.0 would be amended to reflect the new zoning of Priority Mail rates affecting all pieces over 1 pound and up to 5 pounds. This section would also be amended to reflect that each addressed Express Mail or Priority Mail flat-rate envelope would be charged the Express Mail rate for 1/2-pound or the Priority Mail rate for 1 pound, as applicable, regardless of the actual weight.

P013.8.0 would be amended to show how to calculate postage for Standard Mail automation rate letter-size pieces and ECR automation-compatible letter-size pieces that weigh more than 3.3 ounces.

P014.5.0 would be amended to expand the circumstances under which the Postal Service may deny Express Mail postage refund requests when the service guarantee is not met.

P021.3.1 would be amended to note the availability of stamped cards.

P100

P100.4.0 and 5.0 would be amended to change ''nonstandard surcharge'' to ''nonmachinable surcharge.''

P200

P200.1.5 would be amended to include requirements for separating DADC entry pieces if the mailing is not presented with mailing documentation at the time of postal verification. New P200.1.8 would contain the standards for the waiving of nonadvertising rates relocated from P200.2.4.

P600

P600.2.1 would be amended to include standards for the new nonmachinable surcharge for Standard Mail.

P900

P910 would be amended to add new rate category abbreviations for the AADC, ADC, mixed AADC, and mixed ADC rates for First-Class Mail and Standard Mail.

P960 would be amended to clarify when MLOCR markings must appear on mailpieces and to add new MLOCR markings for the AADC, ADC, mixed AADC, and mixed ADC rates for First-Class Mail and Standard Mail.

R Rates and Fees

The entire R Module would be revised to reflect the proposed rates and fees for all classes of mail and special services.

S Special Services

S020 would be amended to increase the maximum amount of a single money order from $700 to $1,000.

S010 and S500 would be amended to reduce the indemnity included in the base price of Express Mail service from $500 to $100.

S911 and S912 would be amended to add that mailers can access delivery information over the Internet at www.usps.com. Mailers would be required to provide the certified mail or registered mail article number.

S915 would be amended to add a new service option, available in Fall 2002, that would provide mailers with an electronic return receipt if they provide an e-mail address at the point of purchase or preregister on the Internet at www.usps.com. Also available in Fall 2002, is another option that would allow mailers to purchase a return receipt after mailing via the Internet at www.usps.com.

S918 and S919 would be amended to extend Delivery Confirmation and Signature Confirmation to First-Class Mail parcels, and also to limit this service to parcels only in the Package Services mail class. S918 and S919 would also specify that for the purposes of adding Delivery Confirmation or Signature Confirmation service, a parcel would be required to meet the definition in C100.5.0 or C700.1.0, as appropriate.

Although exempt from the notice and comment requirements of the Administrative Procedures Act [5 U.S.C. 553 (b), (c)] regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites comments on the following proposed revisions of the Domestic Mail Manual (DMM) incorporated by reference in the Code of Federal Regulations. See 39 CFR part 111.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

PART 111—[AMENDED]

1. The authority citation for 39 CFR Part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 414, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

2. Revise the following sections of the Domestic Mail Manual (DMM) as follows:

A Addressing

A000 Basic Addressing

A010 General Addressing Standards

1.0 ADDRESS CONTENT AND PLACEMENT

* * * * *

[Amend the title and content of 1.3 to replace ''nonstandard'' with ''nonmachinable.'' No other changes to the text.]

* * * * *

2.0 ZIP CODE

* * * * *

[Amend the title and text of 2.3 to remove obsolete information about the DPBC numeric equivalent to read as follows:]

2.3 Numeric DPBC

A numeric equivalent of a delivery point barcode (DPBC) consists of five digits, a hyphen, and seven digits as specified in C840. The numeric equivalent is formed by adding three digits directly after the ZIP+4 code.

[Remove 2.4, Class and Rate Standards.]

* * * * *

4.0 RETURN ADDRESS

* * * * *

[Remove 4.5, Upgradable Mail.]

[Redesignate Exhibit 4.5, OCR Read Area and Barcode Clear Zone, as Exhibit C830.1.1.]

* * * * *

[Amend the title of A800 to show that the unit contains standards that apply to any barcoded pieces, not just mail claimed at automation rates, to read as follows:]

A800 Addressing for Barcoding

1.0 Accuracy

* * * * *

1.3 Numeric DPBC

[Amend 1.3 to remove obsolete information about the DPBC numeric sequivalent to read as follows:]

A numeric equivalent of the delivery point barcode (DPBC) consists of five digits, a hyphen, and seven digits, as specified in C840. The numeric

equivalent is formed by adding three digits directly after the ZIP+4 code.

* * * * *

A950 Coding Accuracy Support System (CASS)

* * * * *

3.0 DATE OF ADDRESS MATCHING AND CODING

3.1 Update Standards

[Amend 3.1 to clarify that signing a postage statement certifies that the mail meets the requirements for the rates claimed to read as follows:]

Unless Z4CHANGE is used, all automation and carrier route mailings bearing addresses coded by any AIS product must be coded with current CASS-certified software and the current USPS database. Coding must be done within 90 days before the mailing date for all carrier route mailings and within 180 days before the mailing date for all non-carrier route automation rate mailings. All AIS products may be used immediately on release. New product releases must be included in address matching systems no later than 45 days after the release date. The overlap in dates for product use allows mailers adequate time to install the new data files and test their systems. Mailers are expected to update their systems with the latest data files as soon as practicable and need not wait until the ''last permissible use'' date to include the new information in their address matching systems. The mailer's signature on the postage statement certifies this standard has been met when the corresponding mail is presented to the USPS. The current USPS database product cycle is defined by the following matrix.

* * * * *

5.0 DOCUMENTATION

[Amend 5.1 to show that mailers must complete Form 3553 and to show that signing a postage statement certifies that the mail meets the requirements for the rates claimed to read as follows:]

5.1 Form 3553

Unless excepted by standard, the mailer must complete a Form 3553 for each mailing claimed at automation rates, carrier route Periodicals rates, Enhanced Carrier Route Standard Mail rates, and carrier route Bound Printed Matter rates. A computer-generated facsimile may be used if it contains the required data elements in a format similar to the USPS form. The data recorded on Form 3553 must refer only to the address list used to produce the mailing with which it is presented. The mailer certifies compliance with this standard when signing the corresponding postage statement.

[Amend 5.2 to show that supporting documentation does not have to be submitted with the mailing, but must be retained by the mailer or mailer's agent for 1 year to read as follows:]

5.2 Retention Period

Form 3553 and other documentation must be kept by the mailer or the mailer's agent for 1 year from the date of mailing and be made available to the USPS on 24-hour notice.

* * * * *

5.5 Using a Single List

[Amend 5.5 by adding retention requirements to read as follows:]

When a mailing is produced using all or part of a single address list, the mailer must retain one Form 3553 and other required documentation reflecting the summary output information for the entire list, as obtained when the list was coded. When the same address list is used for other mailings within 180 days of the date it was matched and coded, a copy of the Form 3553 must be retained with the documentation for each mailing.

5.6 Using Multiple Lists

[Amend 5.6 by adding retention requirements to read as follows:]

When a mailing is produced using multiple address lists, the mailer must retain a consolidated Form 3553 summarizing the individual summary output and/or facsimile Forms 3553 for each list used (and other required documentation). As an alternative, the mailer may combine the addresses selected from the multiple lists into a single new list, reprocess the addresses using CASS-certified address matching software, and retain one Form 3553 for the summary output generated by that process.

[Remove current 5.7, redesignate 5.8 as 5.7, and amend by adding retention requirements to read as follows:]

5.7 Using CASS Certificate

If the name of the CASS-certified company entered on Form 3553 does not appear on the list published by the USPS, a copy of the CASS certificate for the software used also must be retained by the mailer with the documentation.

* * * * *

C Characteristics and Content

C000 General Information

C010 General Mailability Standards

1.0 MINIMUM AND MAXIMUM DIMENSIONS

* * * * *

1.3 Length and Height

[Remove 1.3b and redesignate current 1.3c as 1.3b. There are no other changes to the text. Standard Mail Enhanced Carrier Route pieces would be subject to the standards pertaining to length and height.]

* * * * *

[Remove 1.6, Nonstandard Surcharge.]

* * * * *

C050 Mail Processing Categories

1.0 BASIC INFORMATION

[Amend 1.0 to add a reference to new Exhibit 1.0 (redesignated Exhibit 2.0) to read as follows:]

Every mailpiece is assigned to one of the mail processing categories in the following sections. These categories are based on the physical dimensions of the piece, regardless of the placement (orientation) of the delivery address on the piece. Exhibit 1.0 shows the minimum and maximum dimensions for some mail processing categories.

[Redesignate Exhibit 2.0, Mail Dimensions, as Exhibit 1.0 and insert here.]

2.0 LETTER-SIZE MAIL

[Revise 2.0 to read as follows:]

2.1 Minimum and Maximum Size

Letter-size mail is:

a. Not less than 5 inches long, 3½ inches high, and 0.007 inch thick.

b. Not more than 11½ inches long, 6⅛ inches high, and ¼-inch thick.

2.2 Nonmachinable Criteria

A letter-size piece is nonmachinable if it has one or more of the following characteristics (see C010.1.1 for how to determine the length, height, top, bottom, and sides of a mailpiece):

a. Has an aspect ratio (length divided by height) of less than 1.3 or more than 2.5.

b. Is polybagged, polywrapped, or enclosed in any plastic material.

c. Has clasps, strings, buttons, or similar closure devices.

d. Contains items such as pens, pencils, keys, and loose coins that cause the thickness of the mailpiece to be uneven.

e. Is too rigid (does not bend easily when subjected to a transport belt tension of 40 pounds around an 11-inch diameter turn).

f. For pieces more than 4¼ inches high or 6 inches long, the thickness is less than 0.009 inch.

g. Has a delivery address parallel to the shorter dimension of the mailpiece.

h. For folded self-mailers, the folded edge is perpendicular to the address, regardless of the use of tabs, wafer seals, or other fasteners.

i. For booklet-type pieces, the bound edge (spine) is the shorter dimension of the piece or is at the top, regardless of the use of tabs, wafer seals, or other fasteners.

2.3 Automation Rates

Letters and cards mailed at automation rates must meet the standards in C810.

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C100 First-Class Mail

* * * * *

2.0 CARDS CLAIMED AT CARD RATES

[Revise 2.0 to implement new Domestic Mail Classification Schedule language for cards claimed at card rates to read as follows. The Postal Service is proposing a 6-month phase-in period for compliance with these standards (see sections 2.7 and 2.8). After the phase-in period, cards that do not meet the standards in 2.0 would not be eligible for card rates):]

2.1 Definition

Cards eligible for card rates are:

a. Stamped cards (cards with postage imprinted on them and supplied by the USPS). Three types of stamped cards are available. See P021.3.1.

b. Postcards (commercially prepared mailing cards that meet the criteria of this section).

c. Double cards (see 2.11). These cards consist of two attached postcards, one of which is designed to be detached by the recipient and mailed back as a reply. The reply half of a double card may be a business reply card (S922) or a merchandise return service label (S923.5.4).

2.2 Rates

Cards can be prepared and mailed at First-Class Mail single-piece, Presorted, and automation rates. Cards that do not meet the applicable standards in 2.0 are not eligible for card rates.

2.3 Dimensions

Each card or each half of a double card mailed at a card rate must be:

a. Rectangular.

b. Not less than 3½ inches high, 5 inches long, and 0.007 inch thick.

c. Not more than 4¼ inches high, 6 inches long, and 0.016 inch thick.

2.4 Paper Stock

A card must be of uniform thickness and made of unfolded and uncreased paper from stock meeting the industry standard for a basis weight of 75 pounds or greater (with a tolerance of 4-pound basis weight). A card may be formed of one piece of paper or cardstock, or two pieces of paper that are permanently and uniformly bonded together. The cardstock may be of any light color that permits printing of legible addresses and markings.

2.5 Perforations

A card may have perforations as long as they do not eliminate or interfere with any address element, postage, or postal markings and do not compromise the physical integrity of the card. A minimum ratio of 50:50 (stock to perforations) is required.

2.6 Attachments

A card may bear an attachment that is totally adhered to the card surface, not an encumbrance to postal processing, and one of the following:

a. Made of paper, such as a label, wafer seal, or decal and is affixed by permanent adhesive, including an address label affixed by permanent adhesive for the delivery or return address.

b. A small reusable seal or decal prepared with pressure-sensitive and nonremovable adhesive, designed to be removed from the first half of a double card and applied to the reply half.

2.7 Address Side and Delivery Address

Cards eligible for and claimed at the single-piece rate are not subject to the standards in this section. The address side of the card must be formatted so that the delivery address, return address, postage, rate markings, and any ancillary service endorsement are clearly distinguished from any message and other nondelivery information. nondelivery information may not appear to the right of or below the delivery address. The delivery address must appear within an area:

a. ½ inch from the right edge of the card.

b. ½ inch from the left edge of the card.

c. ⅝ inch from the bottom edge of the card.

d. The top line of the address block may be no more than 2¾ inches from the bottom edge of the card.

2.8 Cards Divided Vertically

Cards eligible for and claimed at the single-piece rate are not subject to the standards in this section. A card may be divided vertically into a right side and a left side, with or without a vertical rule. If used, a vertical rule may not extend lower than ⅝ inch from the bottom edge of the card. The following standards also apply:

a. The right side must measure at least 2⅛ inches wide from the right edge of the card.

b. The postage, delivery address, and rate markings must appear on the right side.

c. The delivery address lines must be uniformly left aligned; a minimum ¼-inch clear space must be maintained between the delivery address and the vertical rule, if used, or any nondelivery information on the left side.

d. Nondelivery information may appear on the left side only, except that the information may extend into the right side of the card above the address block. Any such information extending into the right side must be shaded, surrounded by a border, or separated with a minimum ¼-inch clear space between the postage, delivery address, return address, rate markings, and any ancillary service endorsement.

2.9 Postage and Rate Markings

Cards eligible for and claimed at the single-piece rate are not subject to the standards in this section. Postage and rate markings must appear in the upper right of the address area or in the upper right corner of the card. A minimum ¼-inch clear space, with or without a border, must be maintained between nondelivery information and the postage, return address, rate markings, and any ancillary service endorsement.

2.10 Return Address

If a mailer chooses to include a return address, it must be placed in the upper left corner of the address area or the upper left corner of the address side of the card.

2.11 Double Cards

A double card must be folded before mailing and prepared so that the address on the reply half is on the inside when originally mailed. Enclosures in double cards are prohibited at card rates. The following standards apply:

a. The first half of a double card must be detached when the reply half is mailed for return. The reply half must be used for reply only and may not be used to convey a message to the original addressee or to send statements of account. It may be formatted for reply purposes (e.g., contain blocks for completion by the addressee).

b. Double cards that are not prepared in accordance with C810 are considered

nonmachinable and must be prepared as nonmachinable pieces under M130.

c. Plain stickers, seals, or a single wire stitch (staple) may be used to fasten the open edge of double cards.

* * * * *

[Amend the title and content of 4.0 to reflect the new nonmachinable surcharge for some First-Class Mail letters and flats to read as follows:]

4.0 NONMACHINABLE PIECES

Letter-size pieces that weigh 1 ounce or less and meet one or more of the nonmachinable characteristics in C050.2.2 may be subject to the nonmachinable surcharge (see E130 and E140). Nonletters (flats and parcels) that weigh 1 ounce or less are subject to the nonmachinable surcharge if any one of the following applies (see C010.1.1 for how to determine the length and height of a mailpiece):

a. The piece is greater than ¼-inch thick.

b. The length is more than 11½ inches or the height is more than 6⅛ inches.

c. The aspect ratio (length divided by height) is less than 1.3 or more than 2.5.

[Redesignate section 5.0, Facing Identification Mark (FIM), as 6.0. Add new 5.0, Parcels, to read as follows:]

5.0 Parcels

For the purposes of adding Delivery Confirmation and Signature Confirmation, a First-Class Mail parcel is defined as any piece that:

a. Has an address side with enough surface area to fit the delivery address, return address, postage, rate markings and endorsements, and special service label; and,

b. Is in a box, or if not in a box, is more than ¾-inch thick at its thickest point.

* * * * *

C200 Periodicals

Summary

[Revise the summary in C200 to read as follows:]

C200 describes permissible mailpiece components (e.g., enclosures, attachments, and supplements) and impermissible or prohibited components for Periodicals mail. It also describes mailpiece construction and required printed features such as title, imprint, and publication address.

* * * * *

C600 Standard Mail

1.0 DIMENSIONS

1.1 Basic Standards

These standards apply to Standard Mail:

* * * * *

[Redesignate 1.1c and 1.1d as 1.1d and 1.1e, respectively. Redesignate Exhibit 1.1d as Exhibit 1.1e. Add new 1.1c to require that some ECR letters must meet the physical standards for automation letters in C810 to read as follows:]

c. ECR pieces mailed at high-density and saturation letter rates must meet the standards for automation-compatible mail in C810.

* * * * *

[Redesignate 3.0, Postal Inspection, and 4.0, Enclosures, as 4.0 and 5.0, respectively. Add new 3.0, Nonmachinable Pieces, to reflect the new nonmachinable surcharge for some Standard Mail letters to read as follows:]

3.0 NONMACHINABLE PIECES

Letter-size pieces that weigh 3.3 ounces or less and meet one or more of the nonmachinable criteria in C050.2.2 may be subject to the nonmachinable surcharge (see E620).

* * * * *

C700 Package Services

1.0 PACKAGE SERVICES

These standards apply to Package Services:

* * * * *

[Insert new 1.0h to read as follows:]

h. For the purposes of adding Delivery Confirmation and Signature Confirmation, a Package Services parcel is defined as any piece that meets the following standards:

(1) Has an address side with enough surface area to fit the delivery address, return address, postage, markings and endorsements, and special service label.

(2) Is in a box, or if not in a box, is more than ¾-inch thick at its thickest point.

[Amend the title of 2.0 by adding ''Surcharge'' to read as follows:]

2.0 NONMACHINABLE SURCHARGE—PARCELS

* * * * *

[Amend the title of C800 by adding ''Machinable'' to read as follows:]

C800 Automation-Compatible and Machinable Mail

C810 Letters and Cards

1.0 BASIC STANDARDS

[Amend 1.0 to show that some ECR letters must meet the standards for automation-compatible mail to read as follows:]

Letters and cards claimed at automation rates and at some Standard Mail Enhanced Carrier Route rates must meet the standards in 2.0 through 8.0. Pieces claimed at First-Class Mail automation card rates also must meet the standards in C100. Unless prepared under 7.2 through 7.4, each mailpiece must be prepared either as a sealed envelope (the preferred method) or, if unenveloped, must be sealed or glued on all four sides.

2.0 DIMENSIONS

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2.4 Maximum Weight

[Amend 2.4 to replace the weight limit for upgradable letters with the weight limit for machinable letters, to raise the weight limit for Standard Mail automation heavy letters to 3.5 ounces, and to add a weight limit for ECR high density and saturation letters, to read as follows:]

Maximum weight limits are as follows:

a. First-Class Mail:

(1) Machinable Presorted: 3.3 ounces (0.2063 pound).

(2) Automation (see 7.5 for pieces heavier than 3 ounces): 3.3 ounces (0.2063 pound).

b. Periodicals automation (see 7.5 for pieces heavier than 3 ounces): 3.3 ounces (0.2063 pound).

c. Standard Mail:

(1) Machinable Presorted: 3.3 ounces (0.2063 pound).

(2) Automation regular and carrier route (see 7.5 for pieces heavier than 3 ounces): 3.5 ounces (0.2188 pound).

(3) Enhanced Carrier Route high density and saturation (see 7.5 for pieces heavier than 3 ounces): 3.5 ounces (0.2188 pound).

* * * * *

8.0 ENCLOSED REPLY CARDS AND ENVELOPES

8.1 Basic Standard

[Amend the first paragraph of 8.1 to clarify that signing a postage statement certifies the mail meets the requirements for the rates claimed to read as follows:]

All letter-size reply cards and envelopes (business reply mail (BRM), courtesy reply mail (CRM), and meter reply mail (MRM)) provided as enclosures in automation First-Class Mail, Periodicals, and Standard Mail, and addressed for return to a domestic delivery address, must meet the applicable automation-compatible mail standards in C810. The mailer's

signature on the postage statement certifies that this standard, and the standards listed below, have been met when the corresponding mail is presented to the USPS: * * *

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C820 Flats

* * * * *

2.0 DIMENSIONS AND CRITERIA FOR FSM 881 PROCESSING

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2.4 Maximum Weight

[Amend 2.4 to add a weight limit for BPM flats by adding new 2.4d to read as follows:]

d. For Bound Printed Matter pieces claiming the barcode discount, 16 ounces.

* * * * *

C830 OCR Standards

1.0 OCR READ AREA

1.1 Definition

[Amend 1.1 to add a reference to new Exhibit 1.1 (redesignated Exhibit A010.4.5) to read as follows:]

The optical character reader (OCR) read area is a rectangular area on the address side of the mailpiece formed by these boundaries (see Exhibit 1.1):

a. Left: ½ inch from the left edge of the piece.

b. Right: ½ inch from the right edge of the piece.

c. Top: 2¾ inches from the bottom edge of the piece.

d. Bottom: ⅝ inch from the bottom edge of the piece.

[Insert Exhibit 1.1, OCR Read Area and Barcode Clear Zone (redesignated Exhibit A010.4.5). There are no changes to the exhibit.]

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C840 Barcoding Standards for Letters and Flats

* * * * *

2.0 BARCODE LOCATION FOR LETTER-SIZE PIECES

2.1 Barcode Clear Zone

[Amend the first paragraph in 2.1 to remove references to show that Standard Mail Enhanced Carrier Route pieces must have a barcode clear zone and to remove references to upgradable mail, to read as follows:]

Each letter-size piece in an automation rate mailing or claimed at an Enhanced Carrier Route saturation or high density rate must have a barcode clear zone unless the piece bears a DPBC in the address block. The barcode clear zone and all printing and material in the clear zone must meet the reflectance standards in 5.0. The barcode clear zone is a rectangular area in the lower right corner of the address side of cards and letter-size pieces defined by these boundaries: * * *

* * * * *

2.2 General Standards

[Amend 2.2 to show that these standards for delivery point barcodes also would apply to Enhanced Carrier Route saturation and high density rate pieces, to read as follows:]

Automation rate pieces and pieces claimed at an Enhanced Carrier Route saturation or high density rate that weigh 3 ounces or less may bear a DPBC either in the address block or in the barcode clear zone. Pieces that weigh more than 3 ounces must bear a DPBC in the address block.

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5.0 REFLECTANCE

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5.4 Dark Fibers and Background Patterns

[Amend 5.4 to include references to Enhanced Carrier Route saturation and high density rate pieces and remove 5.4c to read as follows:]

Dark fibers or background patterns (e.g., checks) that produce a print contrast ratio of more than 15% when measured in the red and green portions of the optical spectrum are prohibited in these locations:

a. The area of the address block or the barcode clear zone where the barcode appears on a card-size or a letter-size piece mailed at automation rates or at Enhanced Carrier Route saturation or high density rates.

b. The area of the address block or the area of the mailpiece where the barcode appears on a flat-size piece in an automation rate mailing.

* * * * *

[Amend the title and summary text of C850 by replacing ''Standard Mail'' and ''Package Services'' with ''Parcels'' to read as follows:]

C850 Barcoding Standards for Parcels

Summary

C850 describes the technical standards for barcoded parcels. It defines parcel barcode characteristics, location, and content.

1.0 GENERAL

1.1 Basic Requirement

[Amend 1.1 to remove references to specific classes of mail to read as follows:]

Every parcel eligible for a barcode discount must bear a properly prepared barcode that represents the correct ZIP Code information for the delivery address on the mailpiece plus the appropriate verifier character suffix or application identifier prefix characters as described in 1.0 through 4.0. The combination of appropriate ZIP Code and verifier or application identifier characters uniquely identifies the barcode as the postal routing code.

* * * * *

1.4 Use With Delivery Confirmation and Signature Confirmation Services

[Amend 1.4 to remove references to specific classes of mail to read as follows:]

A mailer may qualify for the machinable parcel barcode discount and may apply Delivery Confirmation and Signature Confirmation barcodes in one of the following ways:

* * * * *

[Amend 1.4c to delete references to specific classes of mail (to allow integrated barcodes for First-Class Mail parcels) to read as follows:]

c. A single integrated barcode may be used by Delivery Confirmation electronic option mailers who choose to combine Delivery Confirmation or Signature Confirmation service with insurance. Mailers printing their own barcodes and using the electronic option must meet the specifications in S918, S919, and Publication 91 with these modifications:

(1) The text above the barcode must identify the other service requested.

(2) The service type code in the barcode must identify the class of mail and/or type of special service combined with Delivery Confirmation or Signature Confirmation.

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D Deposit, Collection, and Delivery

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D200 Periodicals

D210 Basic Information

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3.0 EXCEPTIONAL DISPATCH

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3.4 Destination Rates

[Amend 3.4 by removing the first sentence and revising the remaining sentence to read as follows:]

Copies of Periodicals publications deposited under exceptional dispatch may be eligible for and claimed at the destination sectional center facility (DSCF) or destination delivery unit

(DDU) rates if the applicable standards in E250 are met.

* * * * *

4.0 DEPOSIT AT AMF

4.1 General

[Amend 4.1 by deleting the reference to SCF rates to read as follows:]

A publisher that airfreights copies of a Periodicals publication to an airport mail facility (AMF) must be authorized additional entry at the verifying office (i.e., the post office where the copies are presented for postal verification). Postage must be paid at that office unless an alternative postage payment method is authorized. Copies presented at an AMF may be eligible for the delivery unit rate, subject to the applicable standards.

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D230 Additional Entry

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2.0 DISTRIBUTION PLAN

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[Remove 2.2, Contingency Entries, and remove the title ''2.1 Basic Standards.'']

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4.0 USE OF ENTRY

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[Remove 4.6, Contingency Entry, and redesignate 4.7 as 4.6.]

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D500 Express Mail

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1.0 SERVICE OBJECTIVES AND REFUND CONDITIONS

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1.6 Postage Not Refunded

[Revise 1.6 to add the additional limitations for Express Mail refunds to read as follows:]

Postage is not refunded if an item is delayed because of an incorrect ZIP Code or address, an item was improperly detained for law enforcement purposes, forwarding or return service was provided after the item was made available for claim, delivery was attempted within the times required for the specific service; delay or cancellation of flights, strike or work stoppage; or as authorized by USPS headquarters when delay was caused by:

a. Governmental action beyond the control of the USPS or air carriers.

b. War, insurrection, or civil disturbance.

c. Breakdown of a substantial portion of the USPS transportation network resulting from events or factors outside the control of the USPS.

d. Acts of God.

Attempted delivery occurs under any of these situations when the delivery is physically attempted, but cannot be made; the shipment is available for delivery, but the addressee made a written request that the shipment be held for a specific day or days; the delivery employee discovers that the shipment is undeliverable as addressed before leaving on the delivery route.

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E Eligibility

E000 Special Eligibility Standards

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E070 Mixed Classes

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2.0 ATTACHMENTS OF DIFFERENT CLASSES

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2.2 Rate Qualification

If a Periodicals, Standard Mail, or Package Services host piece qualifies for:

* * * * *

[Amend 2.2d by revising the first sentence and removing the second sentence to read as follows:]

d. A destination rate (DDU, DSCF, DADC, or DBMC), a Standard Mail attachment is eligible for the comparable destination entry rate. The attachment need not meet the volume standard that would apply if mailed separately. A rate including a destination entry discount may not be claimed for an attachment unless a similar rate is available and claimed for the host piece.

* * * * *

E100 First-Class Mail

E110 Basic Standards

* * * * *

[Revise 3.0 to read as follows:]

3.0 CARD RATE

To be eligible for a card rate, a stamped card, postcard, and each part of a double (reply) card must meet the physical standards in C100. The reply half of a double card need not bear postage when originally mailed, but it must bear postage at the applicable rate when returned, unless prepared with a business reply format (S922) or a merchandise return service label (S923.5.4).

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E120 Priority Mail

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2.0 RATES

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2.2 Flat-Rate Envelope

[Amend 2.2 by changing ''2-pound'' to ''1-pound'' to read as follows:]

Any amount of material that can be mailed in the special flat-rate envelope available from the USPS is subject to the 1-pound Priority Mail rate, regardless of the actual weight of the mailpiece.

* * * * *

2.4 Keys and Identification Devices

[Amend 2.4 to show that the 2-pound rate is a zoned rate to read as follows:]

Keys and identification devices (e.g., identification cards or uncovered identification tags) that weigh more than 13 ounces but not more than 1 pound are returned at the 1-pound Priority Mail rate plus the fee shown in R100.10.0. Keys and identification devices weighing more than 1 pound but not more than 2 pounds are mailed at the 2-pound Priority Mail zone rate plus the fee in R100.10.0. The key or identification device must bear, contain, or have securely attached the name and complete address of a person, organization, or concern, with instructions to return the key or identification device to that address and a statement guaranteeing payment of postage due on delivery.

E130 Nonautomation Rates

* * * * *

2.0 SINGLE-PIECE RATE

* * * * *

2.2 Keys and Identification Devices

[Amend 2.2 by adding the reference to R100.10.0 to read as follows:]

Keys and identification devices (e.g., identification cards or uncovered identification tags) that weigh 13 ounces or less are mailed at the applicable single-piece letter rate plus the fee in R100.10.0. The keys and identification devices must bear, contain, or have securely attached the name and complete address of a person, organization, or concern, with instructions to return the piece to that address and a statement guaranteeing payment of postage due on delivery.

* * * * *

[Add new 2.4 to show that letter-size pieces may be subject to the nonmachinable surcharge to read as follows:]

2.4 Nonmachinable Surcharge—Letter-Size Pieces

The nonmachinable surcharge in R100.11.0 applies to letter-size pieces:

a. That weigh 1 ounce or less and meet one or more of the nonmachinable criteria in C050.2.2. Pieces mailed at the

card rate are not subject to the nonmachinable surcharge.

b. For which the mailer chooses the manual only (''do not automate'') option. This includes pieces mailed at the card rate.

[Add new 2.5 to show that flats may be subject to the nonmachinable surcharge to read as follows:]

2.5 Nonmachinable Surcharge—Nonletters

Nonletters (flats and parcels) that weigh 1 ounce or less are subject to the nonmachinable surcharge in R100.11.0 if any one of the following applies (see C010.1.1 for how to determine the length and height of a mailpiece):

a. The piece is greater than ¼-inch thick.

b. The length is more than 11½ inches or the height is more than 6⅛ inches.

c. The aspect ratio (length divided by height) is less than 1.3 or more than 2.5.

3.0 PRESORTED RATE

* * * * *

3.3 Address Quality

[Amend the first paragraph of 3.3 to clarify that signing a postage statement certifies that the mail meets the requirements for the rates claimed to read as follows:]

The move update standards for address quality are listed below. The mailer's signature on the postage statement certifies that this standard has been met when the corresponding mail is presented to the USPS:* * *

3.4 ZIP Code Accuracy

[Amend 3.4 to clarify that signing a postage statement certifies that the mail meets the requirements for the rates claimed to read as follows:]

All 5-digit ZIP Codes included in addresses on pieces claimed at the Presorted rate must be verified and corrected within 12 months before the mailing date using a USPS-approved method. The mailer's signature on the postage statement certifies that this standard has been met when the corresponding mail is presented to the USPS. This standard applies to each address individually, not to a specific list or mailing. An address meeting this standard may be used in mailings at any other rate to which the standard applies during the 12-month period after its most recent update.

[Add new 3.5 to show that letter-size pieces may be subject to the nonmachinable surcharge to read as follows:]

3.5 Nonmachinable Surcharge—Letter-Size Pieces

Letter-size pieces that weigh 1 ounce or less and meet one or more of the nonmachinable criteria in C050.2.2 are subject to the nonmachinable surcharge in R100.11.0. Pieces mailed at the card rate are not subject to the nonmachinable surcharge. Double cards that are not prepared in accordance with C810 are considered nonmachinable; they are not charged the surcharge but must be prepared according to the standards for nonmachinable pieces in M130.

[Add new 3.6 to show that flat-size pieces may be subject to the nonmachinable surcharge:]

3.6 Nonmachinable Surcharge—Nonletters

Nonletters (flats and parcels) that weigh 1 ounce or less are subject to the nonmachinable surcharge in R100.11.0 if any one of the following applies (see C010.1.1 for how to determine the length and height of a mailpiece):

a. The piece is greater than ¼-inch thick.

b. The length is more than 11½ inches or the height is more than 6⅛ inches.

c. The aspect ratio (length divided by height) is less than 1.3 or more than 2.5.

[Add new 3.7 to show that the nonmachinable surcharge applies to pieces where the mailer chooses the manual only option to read as follows:]

3.7 Manual Only Option

The nonmachinable surcharge in R100.11.0 applies to any letter-size piece (including card-rate pieces) for which a mailer chooses the manual only (''do not automate'') option.

[Remove 4.0, Nonstandard Surcharge.]

E140 Automation Rates

1.0 BASIC STANDARDS

* * * * *

1.3 Address Quality

[Amend the first paragraph of 1.3 to clarify that signing a postage statement certifies the mail meets the requirements for the rates claimed to read as follows:]

The move update standards for address quality are listed below. The mailer's signature on the postage statement certifies that this standard has been met when the corresponding mail is presented to the USPS: * * *

1.4 Carrier Route Presort

[Amend 1.4 to clarify that signing a postage statement certifies the mail meets the requirements for the rates claimed to read as follows:]

Carrier route rates are available only for letter-size mail and only for those 5-digit ZIP Code areas identified with an ''A'' or ''B'' in the Carrier Route Indicators field of the USPS City State File used for address coding. Carrier route codes must be applied to mailings using CASS-certified software and the current USPS Carrier Route File scheme or another AIS product containing carrier route information, subject to A930 and A950. Carrier route and City State File information must be updated within 90 days before the mailing date. The mailer's signature on the postage statement certifies that this standard has been met when the corresponding mail is presented to the USPS.

* * * * *

[Remove 1.6, Nonstandard Surcharge.]

[Amend the title and text of 2.0 to reorganize rate application information for and to replace the basic rate with the AADC and mixed AADC rates to read as follows:]

2.0 RATE APPLICATION—CARDS AND LETTERS

Automation rates apply to each piece that is sorted under M810 into the corresponding qualifying groups:

a. Pieces in full carrier route trays, in carrier route groups of 10 or more pieces each placed in 5-digit carrier routes trays, or in carrier route packages of 10 or more pieces each placed in 3-digit carrier routes trays qualify for the carrier route rate. Preparation to qualify for the carrier route rate is optional and need not be done for all carrier routes in a 5-digit area.

b. Groups of 150 or more pieces in 5-digit or 5-digit scheme trays qualify for the 5-digit rate. Preparation to qualify for the 5-digit rate is optional and need not be done for all 5-digit or 5-digit scheme destinations.

c. Groups of 150 or more pieces in 3-digit or 3-digit scheme trays qualify for the 3-digit rate.

d. Groups of fewer than 150 pieces in origin 3-digit or origin 3-digit scheme trays and all pieces in AADC trays qualify for the AADC rate.

e. All pieces in mixed AADC trays qualify for the mixed AADC rate.

[Redesignate 2.2 and 2.3 into new 3.0 and revise to read as follows:]

3.0 RATE APPLICATION—FLATS AND OTHER NONLETTERS

3.1 Package-Based Preparation

Automation rates apply to each piece that is sorted under M820.2.0 or M910.1.0 into the corresponding qualifying groups:

a. Pieces in 5-digit packages of 10 or more pieces qualify for the 5-digit rate. Preparation to qualify for the 5-digit rate is optional and need not be done for all 5-digit destinations.

b. Pieces in 3-digit packages of 10 or more pieces qualify for the 3-digit rate.

c. Pieces in ADC packages of 10 or more pieces qualify for the ADC rate.

d. Pieces in mixed ADC packages qualify for the mixed ADC rate.

3.2 Tray-Based Preparation

Automation rates apply to each piece that is sorted under M820.4.0 into the corresponding qualifying groups:

a. Groups of 90 or more pieces in 5-digit trays qualify for the 5-digit rate. Preparation to qualify for the 5-digit rate is optional and need not be done for all 5-digit destinations.

b. Groups of 90 or more pieces in 3-digit trays qualify for the 3-digit rate.

c. Groups of fewer than 90 pieces in origin 3-digit trays and all pieces in ADC trays qualify for the ADC rate.

d. All pieces in mixed ADC trays qualify for the mixed ADC rate.

[Add new 3.3 to show that flats may be subject to the nonmachinable surcharge to read as follows:]

3.3 Nonmachinable Surcharge

Flats that weigh 1 ounce or less are subject to the nonmachinable surcharge in R100.11.0 if any one of the following applies (see C010.1.1 for how to determine the length and height of a mailpiece):

a. The piece is greater than ¼-inch thick.

b. The length is more than 11½ inches or the height is more than 6⅛ inches.

c. The aspect ratio (length divided by height) is less than 1.3 or more than 2.5.

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E200 Periodicals

E210 Basic Standards

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E217 Basic Rate Eligibility

[Revise 1.0 to read as follows:]

1.0 OUTSIDE-COUNTY RATES

1.1 Description

Outside-County rates apply to copies of an authorized Periodicals publication mailed by a publisher or news agent that are not eligible for In-County rates. Outside-County rates consist of an addressed per piece charge, a zoned charge for the weight of the advertising portion of the publication, and a charge for the weight of the nonadvertising portion.

1.2 Nonrequester and Nonsubscriber Copies

For excess noncommingled mailings under E215, nonrequester and nonsubscriber copies are not eligible for Periodicals rates unless the publication is authorized under E212.2.0 and is not authorized to contain general advertising. Nonrequester and nonsubscriber copies in excess of the 10% allowance under E215 are subject to Outside-County rates when commingled with requester or subscriber copies, as appropriate.

* * * * *

3.0 OUTSIDE-COUNTY SCIENCE-OF-AGRICULTURE RATES

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3.3 Other Rates

[Amend 3.3 by adding the new destination ADC rate, removing the last sentence, and rearranging sentences two and three to read as follows:]

All Outside-County rates and discounts apply, except for separate rates for DDU, DSCF, DADC, and zones 1 & 2. Nonsubscriber copies are subject to E215. Each piece must meet the standards for the rates or discounts claimed.

[Remove 3.4, Nonadvertising Discount, and redesignate 3.5 as 3.4.]

3.4 Application Procedures

[Amend redesignated 3.4 by revising the third and last sentences to read as follows:]

The Science-of-Agriculture rate is available only after USPS authorization. An application or written request for Science-of-Agriculture rates must be filed at the publication's original entry post office. Application may be made by completing the relevant part of an application for Periodicals mailing privileges (Form 3500) or by filing for reentry (Form 3510) after Periodicals mailing privileges are authorized. The applicant must submit evidence to show eligibility under the corresponding standards.

* * * * *

5.0 DISCOUNTS

[Revise 5.0 by restructuring for clarity adding information on the new per piece pallet discount to read as follows:]

5.1 Nonadvertising

The nonadvertising discount applies to the Outside-County piece rate and is computed under P013.

5.2 Presort and Automation

Presort and automation discounts are available under E220, E230, and E240.

5.3 Destination Entry

Destination entry discounts are available under E250 for copies entered at specific USPS facilities.

5.4 Per Piece Pallet

The per piece pallet discount applies to each addressed piece of nonletter-size mail (flats and irregular parcels) prepared in packages on any pallet level. The discount does not apply to pallets weighing less than 250 pounds (except for overflow pallets) and is not available for pieces in sacks or trays on pallets.

5.5 Destination Entry Per Piece Pallet

In addition to the per piece pallet discount in 5.4, the destination entry per piece pallet discount applies to each addressed piece of nonletter-size mail (flats and irregular parcels) prepared in packages on any destination entry pallet. The discount does not apply to pallets weighing less than 250 pounds (except overflow pallets) and is not available for pieces in sacks or trays on pallets.

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E220 Presorted Rates

1.0 BASIC INFORMATION

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1.3 ZIP Code Accuracy

[Amend 1.3 to clarify that signing a postage statement certifies that the mail meets the requirements for the rates claimed to read as follows:]

All 5-digit ZIP Codes in addresses on pieces claimed at the 5-digit, 3-digit, or basic rates must be verified and corrected within 12 months before the mailing date by a USPS-approved method. The mailer's signature on the postage statement certifies that this standard has been met when the corresponding mail is presented to the USPS. This standard applies to each address individually, not to a specific list or mailing. An address meeting this standard may be used in mailings at any other rate to which the standard applies during the 12-month period after its most recent update.

* * * * *

[Remove 3.0, Combining Multiple Publications or Editions.]

E230 Carrier Route Rates

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3.0 WALK-SEQUENCE DISCOUNTS

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3.4 Density Standards

[Amend 3.4a through 3.4e for clarity to read as follows:]

Walk-sequence rate mailings are subject to these density standards:

a. Density standards for walk-sequence rates apply to individual carrier routes. Pieces need not be sent to all carrier routes within a 5-digit delivery area.

b. Except under 3.4c, pieces eligible and claimed at the high density rate must meet the density requirement of at least 125 pieces for each carrier route.

c. Pieces may qualify for In-County high density rates when there are addressed pieces for a minimum of 25% of the total active possible deliveries on a carrier route. If a route contains addresses both within and outside the county, the number of pieces addressed to the entire carrier route is used to determine the 25% requirement. Only those pieces addressed to addresses within the county of original entry are eligible for the In-County high density rates.

d. Pieces eligible for and claimed at the saturation rate must be addressed to either 90% or more of the active residential addresses or 75% or more of the total number of active possible delivery addresses on each carrier route receiving saturation rate mail. Pieces using the simplified address format under A040 must be addressed to 100% of the total number of active possible delivery addresses.

e. More than one addressed piece per delivery address may be included in a high density rate mailing and may be counted for the density standard in 3.4b for the high density rate. Only one piece per delivery address may be counted toward the density standards for high density in 3.4c and for the saturation rate in 3.4d.

[Remove 4.0, Combining Multiple Publications or Editions.]

E240 Automation Rates

1.0 BASIC STANDARDS

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1.2 Enclosed Reply Cards and Envelopes

[Amend 1.2 to clarify that signing a postage statement certifies that the mail meets the requirements for the rates claimed to read as follows:]

All letter-size reply cards and envelopes provided as enclosures in automation rate Periodicals and addressed for return to a domestic delivery address must meet the standards in C810 for enclosed reply cards and envelopes. The mailer's signature on the postage statement certifies that this standard has been met when the corresponding mail is presented to the USPS.

* * * * *

E250 Destination Entry

[Redesignate 1.0 and 2.0 as 2.0 and 3.0, respectively. Add new 1.0 for the new destination ADC rate to read as follows:]

1.0 DADC RATE

1.1 Eligibility

Addressed pieces not eligible for In-County rates can qualify for the destination area distribution center (DADC) rates if the copies are addressed for delivery in the same DADC service area, are deposited at the DADC or a postal-designated facility, and are placed in any container level except a mixed ADC sack or tray, a mixed AADC tray, or a mixed ADC pallet.

1.2 Rates

DADC rates include a pound rate and a per piece discount off the per piece rate. Pieces claimed at DADC rates also must meet the standards for any discount or rate claimed and postage payment method used.

1.3 Documentation

Subject to P012, the publisher must be able to show compliance with 1.1 and 1.2 (e.g., by package, sack, tray, or pallet destination) and the number of pieces by presort level for each 3-digit ZIP Code destination eligible for the DADC rates. Documentation of postage is not required if each piece in the mailing is of identical weight and the pieces are separated when presented for acceptance by rate, zone (including separation by In-County and Outside-County rates), and entry discount (i.e., DDU, DSCF, and DADC).

2.0 DSCF RATE

2.1 Eligibility

[Amend redesignated 2.1 to reflect that DSCF mail must be deposited at the DSCF or a postal-designated facility and to add ineligible container information to read as follows:]

Addressed pieces not eligible for In-County rates can qualify for the destination sectional center facility (DSCF) rates if the copies are addressed for delivery within the facility service area, are deposited at the DSCF, a facility listed in L006, or a postal-designated facility, and are placed in any container level except an ADC (unless the SCF and ADC are co-located) or mixed ADC sack or tray, an AADC (unless the SCF and AADC are co-located) or mixed AADC tray, or an ADC or mixed ADC pallet.

* * * * *

[Add new E260 (former G094) and include minor editorial changes to read as follows:]

E260 Ride-Along

Summary

E260 describes the standards for the Periodicals Ride-Along classification.

1.0 BASIC ELIGIBILITY

1.1 Description

The standards in E260 apply to Standard Mail material paid at the Periodicals Ride-Along rate that is attached to or enclosed with Periodicals mail. All Periodicals subclasses may enclose eligible matter at the Ride-Along rate.

1.2 Basic Standards

Only one Ride-Along piece may be attached to or enclosed with an individual copy of Periodicals mail. If more than one Ride-Along piece is attached or enclosed, mailers have the option of paying Standard Mail postage for all the enclosures or attachments, or paying the Ride-Along rate for the first attachment or enclosure and Standard Mail rates for subsequent attachments and enclosures. Ride-Along pieces eligible under E260 must be eligible as Standard Mail and must:

a. Not exceed any dimension of the host publication.

b. Not exceed 3.3 ounces and must not exceed the weight of the host publication.

c. Not obscure the title of the publication or the address label.

1.3 Physical Characteristics

The host Periodicals piece and the Ride-Along piece must meet the following physical characteristics:

a. Construction:

(1) Bound publications. If contained within the host publication the Ride-Along piece must be securely affixed to prevent detachment during postal processing. If loose, the Ride-Along piece and publication must be enclosed together in a full wrapper, polybag, or envelope.

(2) Unbound publications. If contained within the host publication the Ride-Along piece must be securely affixed to prevent detachment during postal processing. A loose Ride-Along enclosure with an unbound publication must be combined with and inserted within the publication. If the Ride-Along piece is included outside the unbound publication, the publication and the Ride-Along piece must be enclosed in a full wrapper, polybag, or envelope.

b. A Periodicals piece (automation and nonautomation) with the addition

of a Ride-Along piece must remain uniformly thick and remain in the same processing category (flat or letter) as before the addition of the Ride-Along attachment or enclosure.

c. A Periodicals piece with a Ride-Along piece that claims automation discounts must maintain the same processing category and, for flat-size mail, the flat sorting machine criteria under C820 (FSM 881 flat, or FSM 1000 flat) and automation compatibility (C810 and C820), as before the addition of the Ride-Along attachment or enclosure. For example:

(1) If, due to the inclusion of a Ride-Along piece, an FSM 881-compatible host piece can no longer be processed on the FSM 881, but must be processed on an FSM 1000, then that piece must pay either the appropriate Periodicals nonautomation rate plus the Ride-Along rate, or the appropriate Periodicals automation rate for the host piece and the appropriate Standard Mail rate for the attachment or enclosure.

(2) If, due to the inclusion of a Ride-Along piece, an FSM 1000-compatible host piece can no longer be processed on the FSM 1000, but must be processed manually, then that piece must pay either the appropriate Periodicals nonautomation rate plus the Ride-Along rate, or the appropriate Periodicals nonautomation rate for the host piece and the appropriate Standard Mail rate for the attachment or enclosure.

(3) If, due to the inclusion of a Ride-Along piece, an automation letter host piece can no longer be processed as an automation letter, then that piece must pay the appropriate Periodicals nonautomation rate plus the Ride-Along rate, or the appropriate Periodicals nonautomation rate for the host piece and the appropriate Standard Mail rate for the attachment or enclosure.

1.4 Marking

The marking ''Ride-Along Enclosed'' must be placed on or in the host publication if it contains an enclosure or attachment paid at the Ride-Along rate. If placed on the outer wrapper, polybag, envelope, or cover of the host publication, the marking must be set in type no smaller than any used in the required ''POSTMASTER: Send change of address * * *'' statement. If placed in the identification statement, the marking must meet the applicable standards. The marking must not be on or in copies not accompanied by a Ride-Along attachment or enclosure.

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E500 Express Mail

1.0 STANDARDS FOR ALL EXPRESS MAIL

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1.6 Flat-Rate Envelope

[Amend 1.6 by changing ''2-pound'' to ''½-pound'' to read as follows:]

Material mailed in the special flat-rate envelope available from the USPS is subject to the postage rate for a ½-pound piece at the service level requested by the customer, regardless of the actual weight of the piece.

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E600 Standard Mail

E610 Basic Standards

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8.0 Preparation

Each Standard Mail mailing is subject to these general standards:

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[Amend 8.0e to remove references to upgradable preparation to read as follows:]

e. Each piece must bear the addressee's name and delivery address, including the correct ZIP Code or ZIP+4 code, unless an alternative address format is used subject to A040. Detached address labels may be used subject to A060.

* * * * *

E620 Presorted Rates

1.0 BASIC STANDARDS

1.1 General

All pieces in a Presorted Regular or Presorted Nonprofit Standard Mail mailing must:

* * * * *

[Amend 1.1c to remove references to upgradable mailings to read as follows:]

c. Bear a delivery address that includes the correct ZIP Code or ZIP+4 code, unless an alternative address format is used subject to A040. Pieces prepared with detached address labels are subject to additional standards in A060.

* * * * *

1.4 ZIP Code Accuracy

[Amend 1.4 to clarify that signing a postage statement certifies the mail meets the requirements for the rates claimed to read as follows:]

All 5-digit ZIP Codes included in addresses on pieces claimed at Presorted regular and Presorted Nonprofit rates must be verified and corrected within 12 months before the mailing date, using a USPS-approved method. The mailer's signature on the postage statement certifies that this standard has been met when the corresponding mail is presented to the USPS. This standard applies to each address individually, not to a specific list or mailing. An address meeting this standard may be used in mailings at any other rates to which the standard applies during the 12-month period after its most recent update.

2.0 RATES

[Amend 2.0 by combining 2.0a and 2.0b into new 2.0a and renumbering the remaining items accordingly. This is revised to remove references to upgradable mailings.]

Presorted Regular or Nonprofit Standard Mail rates apply to Regular or Nonprofit Standard Mail letters, flats, and machinable and irregular parcels weighing less than 16 ounces that are prepared under M045, M610, or (flat-size mail only) under M910, M920, M930, or M940. Basic Presorted rates apply to pieces that do not meet the standards for the 3/5 Presorted rates described below. Basic rate and 3/5 rate pieces prepared as part of the same mailing are subject to a single minimum volume standard. Pieces that do not qualify for the 3/5 rate must be paid at the basic rate and prepared accordingly. Pieces may qualify for the 3/5 rate if they are presented:

a. In quantities of 150 or more letter-size pieces for a single 3-digit area, prepared in 5-digit or 3-digit trays.

* * * * *

[Redesignate 4.0, Barcoded Discount, as 5.0, and add new 4.0 to show that some Presorted letters are subject to the nonmachinable surcharge to read as follows:]

4.0 NONMACHINABLE SURCHARGE

The nonmachinable surcharge in R600.6.0 applies to any letter-size piece:

a. That weighs 3.3 ounces or less and meets one or more of the nonmachinable criteria in C050.2.2.

b. For which a mailer chooses the manual only (''do not automate'') option.

* * * * *

E630 Enhanced Carrier Route Rates

[Revise E630 in its entirety to reorganize and clarify the current standards and to add standards that require letter-size pieces claimed at high density or saturation rates to be automation-compatible and have delivery point barcodes to read as follows.]

1.0 BASIC STANDARDS

1.1 General

All pieces in an Enhanced Carrier Route Standard Mail mailing must:

a. Meet the basic standards for Standard Mail in E610.

b. Be part of a single mailing of at least 200 pieces or 50 pounds of pieces of Enhanced Carrier Route Standard Mail. Automation basic carrier route rate pieces are subject to a separate 200-piece or 50-pound minimum volume standard and may not be included in the same mailing as other Enhanced Carrier Route mail. Regular and Nonprofit mailings must meet separate minimum volumes.

c. Be sorted to carrier routes, marked, and documented under M045 (if palletized), M620, M920, M930, or M940.

d. Have a complete delivery address or an alternate address format.

1.2 Maximum Size

Enhanced Carrier Route rate mail may not be more than 11¾ inches high, 14 inches long, or ¾-inch thick. Exception: Merchandise samples with detached address labels (DALs) may exceed these dimensions if the labels meet the standards in A060.

1.3 Preparation

Preparation to qualify for any Enhanced Carrier Route rate is optional and need not be performed for all carrier routes in a 5-digit area. An Enhanced Carrier Route mailing may include pieces at basic, high density, and saturation Enhanced Carrier Route rates. Automation basic carrier route rate pieces must be prepared as a separate mailing (see E640).

1.4 Carrier Route Information

Except for mailings prepared with a simplified address under A040, a carrier route code must be applied to each piece in the mailing using CASS-certified software and the current USPS Carrier Route File scheme, hard copy Carrier Route Files, or another AIS product containing carrier route information, subject to A930 and A950. Carrier route information must be updated within 90 days before the mailing date.

2.0 BASIC RATES

2.1 All Pieces

All pieces mailed at basic rates must be prepared in walk sequence or in line-of-travel (LOT) sequence according to LOT schemes prescribed by the USPS (see M050).

2.2 Letter-Size Pieces

Basic rates apply to each piece sorted under M045 or M620 and in a full carrier route tray or in a carrier route package of 10 or more pieces placed in a 5-digit carrier routes or 3-digit carrier routes tray.

2.3 Flat-Size Pieces

Basic rates apply to each piece in a carrier route package of 10 or more pieces that is:

a. Palletized under M045, M920, M930, or M940.

b. Placed in a carrier route sack containing at least 125 pieces or 15 pounds of pieces.

c. Placed in a merged 5-digit scheme, 5-digit scheme carrier routes, merged 5-digit, or 5-digit carrier routes sack.

2.4 Irregular Parcels

Basic rates apply to each piece in a carrier route sack or carton containing at least 125 pieces or 15 pounds of pieces, or in a 5-digit carrier routes sack or carton. DALs must be in carrier route packages of 10 or more pieces and prepared under A060.

3.0 HIGH DENSITY RATES

3.1 All Pieces

All pieces mailed at high density rates must:

a. Be prepared in walk sequence according to schemes prescribed by the USPS (see M050).

b. Meet the density requirement of at least 125 pieces for each carrier route. Multiple pieces per delivery address can count toward this density standard.

3.2 Letter-Size Pieces

High density rates apply to each piece that is automation-compatible according to C810, has a delivery point barcode under C840, and is in a full carrier route tray or in a carrier route package of 10 or more pieces placed in a 5-digit carrier routes or 3-digit carrier routes tray. Pieces bearing a simplified address do not need to meet the standards in C810 and are not required to have a delivery point barcode. Pieces not meeting the standards in this section may be mailed at the high density nonletter rate or at the basic letter rate.

3.3 Discount for Heavy Letters

Pieces that otherwise qualify for the high density letter rate and weigh more than 3.3 ounces but not more than 3.5 ounces pay postage equal to the nonletter piece/pound rate and receive a discount equal to the corresponding high density nonletter piece rate (3.3 ounces or less) minus the corresponding high density letter piece rate (3.3 ounces or less). If claiming a destination entry rate, the discount is calculated using the corresponding rates.

3.4 Flat-Size Pieces

High density rates apply to each piece in a carrier route package of 10 or more pieces that is:

a. Palletized under M045, M920, M930, or M940.

b. Placed in a carrier route sack containing at least 125 pieces or 15 pounds of pieces.

c. Placed in a merged 5-digit scheme, 5-digit scheme carrier routes, merged 5-digit, or 5-digit carrier routes sack.

3.5 Irregular Parcels

High density rates apply to each piece in a carrier route sack or carton containing at least 125 pieces or 15 pounds of pieces, or in a 5-digit carrier routes sack or carton. DALs must be in carrier route packages of 10 or more pieces and prepared under A060.

4.0 SATURATION RATES

4.1 All Pieces

All pieces mailed at saturation rates must:

a. Be prepared in walk sequence according to schemes prescribed by the USPS (see M050).

b. Meet the density requirement of at least 90% or more of the active residential addresses or 75% or more of the total number of active possible delivery addresses on each carrier route receiving this mail. Pieces bearing a simplified address must be addressed to 100% of the total number of active possible deliveries. Multiple pieces per delivery address do not count toward this density standard. Sacks with fewer than 125 pieces or less than 15 pounds of pieces may be prepared to a carrier route when the saturation rate is claimed for the contents and the applicable density standard is met.

4.2 Letter-Size Pieces

Saturation rates apply to each piece that is automation compatible according to C810, has a delivery point barcode under C840, and is in a full carrier route tray or in a carrier route package of 10 or more pieces placed in a 5-digit carrier routes or 3-digit carrier routes tray. Pieces bearing a simplified address do not need to meet the standards in C810 and are not required to have a delivery point barcode. Pieces not meeting the standards in this section may be mailed at the high density nonletter rate or at the basic letter rate.

4.3 Discount for Heavy Letters

Pieces that otherwise qualify for the saturation letter rate and weigh more than 3.3 ounces but not more than 3.5 ounces pay postage equal to the nonletter piece/pound rate and receive a discount equal to the corresponding saturation nonletter piece rate (3.3 ounces or less) minus the corresponding saturation letter piece rate (3.3 ounces or less). If claiming a destination entry

rate, the discount is calculated using the corresponding rates.

4.4 Flat-Size Pieces

Saturation rates apply to each piece in a carrier route package of 10 or more pieces that is:

a. Palletized under M045, M920, M930, or M940.

b. Placed in a carrier route sack containing at least 125 pieces or 15 pounds of pieces.

c. Placed in a merged 5-digit scheme, 5-digit scheme carrier routes, merged 5-digit, or 5-digit carrier routes sack.

4.5 Irregular Parcels

Saturation rates apply to each piece in a carrier route sack or carton containing at least 125 pieces or 15 pounds of pieces, or in a 5-digit carrier routes sack or carton. DALs must be in carrier route packages of 10 or more pieces and prepared under A060.

5.0 RESIDUAL SHAPE SURCHARGE

Any piece that is prepared as a parcel or is not letter-size or flat-size as defined in C050 is subject to the residual shape surcharge.

E640 Automation Rates

1.0 REGULAR AND NONPROFIT RATES

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1.2 Enclosed Reply Cards and Envelopes

[Amend 1.2 to clarify that signing a postage statement certifies the mail meets the requirements for the rates claimed to read as follows:]

All letter-size reply cards and envelopes (business reply, courtesy reply, and meter reply mail) provided as enclosures in automation Regular or Nonprofit Standard Mail, and addressed for return to a domestic delivery address, must meet the standards in C810 for enclosed reply cards and envelopes. The mailer's signature on the postage statement certifies that this standard has been met when the corresponding mail is presented to the USPS.

1.3 Rate Application—Letters-Size Pieces

[Amend 1.3 to replace the basic rate with the AADC and mixed AADC rates to read as follows:]

Automation rates apply to each piece that is sorted under M810 into the corresponding qualifying groups:

a. Groups of 150 or more pieces in 5-digit or 5-digit scheme trays qualify for the 5-digit rate. Preparation to qualify for that rate is optional and need not be done for all 5-digit or 5-digit scheme destinations.

b. Groups of 150 or more pieces in 3-digit or 3-digit scheme trays qualify for the 3-digit rate.

c. Groups of fewer than 150 pieces in origin or entry 3-digit or 3-digit scheme trays and groups of 150 or more pieces in AADC trays qualify for the AADC rate.

d. All pieces in mixed AADC trays qualify for the mixed AADC rate.

[Redesignate 1.4, Rate Application—Flats, as 1.5. Add new 1.4 for heavy automation letters to read as follows:]

1.4 Discount for Heavy Automation Letters

Automation letters that weigh more than 3.3 ounces but not more than 3.5 ounces pay postage equal to the automation piece/pound rate and receive a discount equal to the corresponding automation nonletter piece rate (3.3 ounces or less) minus the corresponding automation letter piece rate (3.3 ounces or less). If claiming a destination entry rate, the discount is calculated using the corresponding rates.

* * * * *

2.0 ENHANCED CARRIER ROUTE RATES

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[Add new 2.6 to include the discount for ECR automation basic letters that weigh between 3.3 and 3.5 ounces to read as follows:]

2.6 Discount for Heavy Letters

Pieces that otherwise qualify for the ECR automation basic rate and weigh more than 3.3 ounces but not more than 3.5 ounces pay postage equal to the ECR regular basic nonletter piece/pound rate and receive a discount equal to the regular basic nonletter piece rate (3.3 ounces or less) minus the automation basic letter piece rate. If claiming a destination entry rate, the discount is calculated using the corresponding rates.

E700 Package Services

E710 Basic Standards

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E712 Bound Printed Matter

1.0 BASIC STANDARDS

1.1 Description

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[Amend 1.1b by adding a new last sentence to read as follows:]

b. Weigh no more than 15 pounds. Pieces might be subject to other minimum weights or dimensions based on the standards for specific rates.

* * * * *

[Remove 1.4, POSTNET Barcodes on Flats.]

2.0 RATES

BPM rates are based on the weight of a single addressed piece or 1 pound, whichever is higher, and the zone (where applicable) to which the piece is addressed. Rate categories are as follows:

* * * * *

[Amend the heading of 2.0d by adding ''Machinable Parcels'' and revise the text to read as follows:]

d. Barcoded Discount—Machinable Parcels. The barcoded discount applies only to BPM machinable parcels (C050.4.1) that bear a correct, readable barcode under C850 for the ZIP Code of the delivery address and are part of a single-piece rate mailing of 50 or more BPM parcels or are part of a presorted rate mailing of at least 300 BPM parcels prepared under M045 and M720. The barcoded discount is not available for parcels mailed at Presorted DDU or DSCF rates, or for Presorted DBMC rate mailings entered at an ASF other than the Phoenix, AZ, ASF. Carrier route rate mail is not eligible for the barcoded discount.

[Add new item 2.0e to read as follows:]

e. Barcoded Discount—Flats. The barcoded discount applies only to BPM flats that bear a correct, readable ZIP+4 or delivery point barcode (DPBC) barcode under C840 for the ZIP+4 code, or numeric DPBC of the delivery address. These pieces must be part of a presort rate mailing of at least 300 BPM flats prepared under M045 and M820 or part of a single-piece rate mailing of 50 or more pieces. The barcoded discount is not available for flats mailed at presorted DDU rates or carrier route rates. To qualify for the barcoded discount, the flat-size piece must meet the flat sorting machine requirements under C820.2.0.

3.0 ADDITIONAL STANDARDS FOR PRESORTED RATES

3.1 ZIP Code Accuracy

[Amend 3.1 to clarify that signing a postage statement certifies that the mail meets the requirements for the rates claimed to read as follows:]

All 5-digit ZIP Codes included in addresses on pieces claimed at presorted rates must be verified and corrected within 12 months before the mailing date using a USPS-approved method. The mailer's signature on the postage statement certifies that this standard has been met when the

corresponding mail is presented to the USPS. This standard applies to each address individually, not a specific list or mailing. An address meeting this standard may be used in mailings at any other rates to which the standard applies during the 12-month period after its most recent update.

[Redesignate current 3.2 as 3.3 and add new 3.2 to show CASS certification for automation rate mailings to read as follows:]

3.2 CASS Certification

Pieces claimed at automation rates for flats must meet the address quality and coding standards in A800 and A950.

3.3 Preparation

[Amend redesignated 3.3 by adding reference to flats to read as follows:]Pieces claiming the Presorted rates must be prepared under M045 or M722 or, for flats claiming the barcode discount under M820.

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E713 Media Mail

[Redesignate former 2.0 as new 1.0:]

[Redesignate former 1.0 as new 2.0 and revise to read as follows:]

2.0 RATES

Media Mail rates are based on the weight of the piece without regard to zone.

The rate categories and discounts are as follows:

a. Single-Piece Rate. The single-piece rate applies to pieces not mailed at a 5-digit or basic rate.

b. 5-Digit Presort Rate. The 5-digit rate applies to pieces that meet the additional requirements in 3.0 and are prepared and presorted to 5-digit scheme or 5-digit destinations as specified in M730 or M041 and M045.

c. Basic Presort Rate. The basic rate applies to pieces that meet the additional requirements in 3.0 and are prepared and presorted as specified in M730 or M041 and M045.

d. Barcoded Discount. The barcoded discount applies to Media Mail machinable parcels (see C050) that are included in a mailing of at least 50 pieces of Media Mail. The pieces must be entered either at single-piece rates or basic rates and bear a correct, readable barcode for the ZIP Code shown in the delivery address as required by C850. The barcoded discount is not available for pieces mailed at 5-digit rates.

[Revise the title and text of 3.0 in its entirety to read as follows:]

3.0 ADDITIONAL STANDARDS FOR PRESORTED RATES

3.1 Basic Information

A presorted Media Mail mailing must contain a minimum of 300 pieces claimed at any combination of 5-digit and basic rates. Those pieces in the mailing that meet the 5-digit presort requirements are eligible for the 5-digit presort rate and those pieces that meet the basic presort requirements are eligible for the basic rates, subject to the preparation standards in M730 or M045. The size and content of each piece in the mailing does not need to be identical. Nonidentical pieces may be merged, sorted together, and presented as a single mailing either with postage paid with a permit imprint if authorized by Business Mailer Support (BMS), USPS headquarters, or with the correct postage affixed to each piece in the mailing.

3.2 5-Digit Rate

To qualify for the 5-digit rate, a piece must be prepared and sorted to either 5-digit scheme and 5-digit sacks under M730 or to 5-digit scheme and 5-digit pallets under M045. All logical 5-digit packages on pallets must contain at least 10 pieces. Nonmachinable parcels may qualify for the 5-digit rate if prepared to preserve sortation by 5-digit ZIP Code as prescribed by the postmaster of the mailing office.

3.3 Basic Rate

All pieces prepared and sorted under M730 or M045 that are not eligible for the 5-digit rate qualify for the basic rate. Nonmachinable parcels may qualify for the basic rate if prepared to preserve sortation by BMC as prescribed by the postmaster of the mailing office.

[Redesignate former 3.2 as new 3.4 to read as follows:]

3.4 Mailing Fee

A mailing fee must be paid once each 12-month period at each post office of mailing by or for any person who mails at the presorted Media Mail rates. The fee may be paid in advance only for the next 12-month period and only during the last 60 days of the current service period. The fee charged is that in effect on the day of payment.

[Remove former 3.5 and 3.6.]

E714 Library Mail

[Redesignate former 2.0 as new 1.0: revise title to read as follows:]

1.0 BASIC STANDARDS

1.1 Sender, Recipient, and Contents

[Amend 1.1 by revising the last sentence to read as follows:]

Each piece must show in the address or return address the name of a school, college, university, public library, museum, or herbarium or the name of a nonprofit religious, education, scientific, philanthropic (charitable), agricultural, labor, veterans, or fraternal organization or association. For Library Mail standards, these nonprofit organizations are defined in E670. Only the articles described in 1.2 and 1.3 may be mailed at the Library Mail rate.

* * * * *

1.4 Enclosures in Books and Sound Recordings

[Amend 1.4 by changing the references 2.4a and 2.4b to 1.4a and 1.4b, respectively, to read as follows:]

Books and sound recordings mailed at the Library Mail rate may contain these enclosures as well as the additions and enclosures permitted under E710:

a. Either one envelope or one addressed postcard. If also serving as an order form, the envelope or card may be in addition to the order form permitted by 1.4b.

b. One order form. If also serving as an envelope or postcard, the order form may be in addition to the envelope or card permitted by 1.4a.

c. With books, announcements of books in book pages or as loose enclosures. These announcements must be incidental and exclusively devoted to books, without extraneous advertising of book-related materials or services. Announcements may fully describe the conditions and methods of ordering books (such as by membership in book clubs) and may contain ordering instructions for use with either single order form permitted in 1.4b.

d. With sound recordings, announcements of sound recordings on title labels, on protective sleeves, on the carton or wrapper, or on loose enclosures. These announcements of sound recordings must be incidental and exclusively devoted to sound recordings. They may not contain extraneous advertising of recording-related materials or services. Announcements may fully describe the conditions and methods of ordering sound recordings (such as by membership in sound recording clubs) and may contain ordering instructions for use with the single order form permitted in 1.4b.

* * * * *

[Redesignate former 1.0 as new 2.0 and revise to read as follows:]

2.0 RATES

Library Mail rates are based on the weight of the piece without regard to

zone. The rate categories and discounts are as follows:

a. Single-Piece Rate. The single-piece rate applies to pieces not mailed at a 5-digit or basic rate.

b. 5-Digit Presort Rate. The 5-digit rate applies to pieces that meet the additional requirements of 3.0 and are prepared and presorted to 5-digit scheme and 5-digit destinations as specified in M740 or M041 and M045.

c. Basic Presort Rate. The basic rate applies to pieces that meet the additional requirement in 3.0 and are prepared and presorted as specified in M740 or M041 and M045.

d. Barcoded Discount. The barcoded discount applies to Library Mail machinable parcels (see C050) that are included in a mailing of at least 50 pieces of Library Mail. The pieces must be entered either at single-piece rates or basic rates and bear a correct, readable barcode for the ZIP Code shown in the delivery address as required by C850. The barcoded discount is not available for pieces mailed at 5-digit rates.

[Revise the title and text of 3.0 in its entirety to read as follows:]

3.0 ADDITIONAL STANDARDS FOR PRESORT RATES

3.1 Basic Information

A presorted Library Mail mailing must contain a minimum of 300 pieces claimed at any combination of 5-digit and basic rates. Those pieces in the mailing that meet the 5-digit presort requirements are eligible for the 5-digit presort rate, and those pieces that meet the basic presort requirements are eligible for the basic rate, subject to the preparation standards in M740 or M045. The size and content of each piece in the mailing does not need to be identical. Nonidentical pieces may be merged, sorted together, and presented as a single mailing either with postage paid with a permit imprint if authorized by Business Mailer Support (BMS), USPS headquarters, or with the correct postage affixed to each piece in the mailing.

3.2 5-Digit Rate

To qualify for the 5-digit rate, a piece must be prepared and sorted to either 5-digit scheme and 5-digit sacks under M740 or to 5-digit scheme and 5-digit pallets under M045. All logical 5-digit packages on pallets must contain at least 10 pieces. Nonmachinable parcels may qualify for the 5-digit rate if prepared to preserve sortation by 5-digit ZIP Code as prescribed by the postmaster of the mailing office.

3.3 Basic Rate

All pieces prepared and sorted under M740 or M045 that are not eligible for the 5-digit rate qualify for the basic rate. Nonmachinable parcels may qualify for the basic rate if prepared to preserve sortation by BMC as prescribed by the postmaster.

[Redesignate former 3.2 as new 3.4 to read as follows:]

3.4 Mailing Fee

A mailing fee must be paid once each 12-month period at each post office of mailing by or for any person who mails at the presorted Library Mail rates. The fee may be paid in advance only for the next 12-month period and only during the last 60 days of the current service period. The fee charged is that in effect on the day of payment.

[Remove 3.5 and 3.6.]

[Remove E715, Bulk Parcel Post.]

E750 Destination Entry

E751 Parcel Select

1.0 BASIC STANDARDS

1.1 Definitions

[Amend 1.1b by adding a sentence after the first one to read as follows:]

b. * * * Those 5-digit machinable parcels not required to be entered at a BMC under Exhibit 6.0 and all 3-digit nonmachinable parcels sorted to the 3-digit level and claimed at the DSCF rate must be deposited at an SCF listed in L005. * * *

* * * * *

1.4 DSCF and DDU Rates

For DSCF and DDU rates, pieces must meet the applicable standards in 1.0 through 6.0 and the following criteria:

[Amend 1.4a by adding ''5-digit scheme'' and ''5-digit Parcel Post;'' to read as follows:]

a. For DSCF rates, be part of a mailing of parcels sorted to 5-digit scheme or 5-digit destinations and deposited at a designated SCF under L005 (or at a BMC under Exhibit 6.0); addressed for delivery within the ZIP Code service area of that SCF under L005; and prepared under with M041, M045, or M710. Nonmachinable parcels sorted to 3-digit ZIP Code prefixes and claimed at a DSCF rate must be entered at a designated SCF under L005. * * *

* * * * *

2.0 PREPARATION

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2.2 Containers

[Amend 2.2c, 2.2d, and 2.2e by adding ''3-digit sack'' after each occurrence of ''5-digit sack'' and adding ''3-digit pallet'' after each occurrence of ''5-digit pallet.'']

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E752 Bound Printed Matter

* * * * *

3.0 DESTINATION SECTIONAL CENTER FACILITY (DSCF) RATES

* * * * *

[Amend the title and text of 3.2 to add eligibility standards for presorted automation flats to read as follows:]

3.2 Presorted and Automation Flats

Presorted flats and automation flats in sacks for the 5-digit, 3-digit, and SCF sort levels or on pallets at the 5-digit scheme and 5-digit, 3-digit, SCF, and ASF sort levels may claim DSCF rates. The mail must be entered at the appropriate facility under 3.1.

* * * * *

E753 Combining Package Services Parcels

[Amend 1.1 by replacing ''BMC rates'' with ''basic rates.'']

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F Forwarding and Related Services

F000 Basic Services

F010 Basic Information

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4.0 BASIC TREATMENT

4.1 General

[Amend 4.1 to remove references to nonstandard mail to read as follows:]

Mail that is undeliverable as addressed is forwarded, returned to the sender, or treated as dead mail, as authorized for the particular class of mail. Undeliverable-as-addressed mail is endorsed by the USPS with the reason for nondelivery as shown in Exhibit 4.1. All nonmailable pieces are returned to the sender.

* * * * *

5.0 CLASS TREATMENT FOR ANCILLARY SERVICES

* * * * *

5.2 Periodicals

Undeliverable Periodicals (including publications pending Periodicals authorization) are treated as described in the chart below and under these conditions:

* * * * *

[Amend 5.2e to show that the nonmachinable surcharge can be charged on Periodicals returned at First-Class Mail single-piece rates to read as follows:]

e. The publisher may request the return of copies of undelivered Periodicals by printing the endorsement ''Address Service Requested'' on the envelopes or wrappers, or on one of the outside covers of unwrapped copies, immediately preceded by the sender's name, address, and ZIP+4 or 5-digit ZIP Code. This endorsement obligates the publisher to pay return postage. Each returned piece is charged the single-piece First-Class Mail or Priority Mail rate applicable for the weight of the piece, plus the nonmachinable surcharge if it applies (see E130). When the address correction is provided incidental to the return of the piece, there is no charge for the correction.

* * * * *

5.3 Standard Mail

Undeliverable Standard Mail is treated as described in the chart below and under these conditions:

* * * * *

[Amend 5.3g to show that the nonmachinable surcharge is included in the calculation of the weighted fee for returned pieces to read as follows:]

g. A weighted fee is charged when an unforwardable or undeliverable piece is returned to the sender and the piece is endorsed ''Address Service Requested'' or ''Forwarding Service Requested.'' The weighted fee is the single-piece First-Class Mail or Priority Mail rate applicable for the weight of the piece, multiplied by 2.472 and rounded up to the next whole cent (if the computation yields a fraction of a cent), plus the nonmachinable surcharge if it applies (see E130). The weighted fee is computed (and rounded if necessary) for each piece individually. Using ''Address Service Requested'' or ''Forwarding Service Requested'' obligates the sender to pay the weighted fee on all returned pieces.

[Redesignate current 5.3h as 5.3i, and add new 5.3h to show that the First-Class Mail nonmachinable surcharge is charged on some returned pieces to read as follows:]

h. Returned pieces endorsed ''Return Service Requested,'' are charged the single-piece First-Class Mail or Priority Mail rate applicable for the weight of the piece, plus the nonmachinable surcharge if it applies (see E130).

* * * * *

6.0 ENCLOSURES AND ATTACHMENTS

6.1 Periodicals

[Amend 6.1 to show that the nonmachinable surcharge can be charged on Periodicals returned at First-Class Mail single-piece rates to read as follows:]

Undeliverable Periodicals (including publications pending Periodicals authorization) with a nonincidental First-Class Mail attachment or enclosure are returned at the single-piece First-Class Mail or Priority Mail rate applicable for the weight of the piece, plus the nonmachinable surcharge if it applies (see E130).

The weight of the attachment or enclosure is not included when computing the charges for return of the mailpiece. Undeliverable Periodicals (including publications pending Periodicals authorization) with an incidental First-Class Mail attachment or enclosure are treated as dead mail unless endorsed ''Address Service Requested.''

6.2 Standard Mail

[Amend 6.2 to show that the nonmachinable surcharge can be charged on Standard Mail returned at First-Class Mail single-piece rates to read as follows:]

Undeliverable, unendorsed Standard Mail with a nonincidental First-Class Mail attachment or enclosure is returned at the single-piece First-Class Mail or Priority Mail rate applicable for the weight of the piece, plus the nonmachinable surcharge if it applies (see E130). The weight of the First-Class Mail attachment or enclosure is not included when computing the charges for return of the mailpiece. Undeliverable, unendorsed Standard Mail with an incidental First-Class Mail attachment or enclosure is treated as dead mail.

* * * * *

F030 Address Correction, Address Change, FASTforward, and Return Services

1.0 ADDRESS CORRECTION SERVICE

1.1 Purposes

[Add a new sentence after the first sentence to clarify the conditions under which address notices are provided to read as follows:]

* * * Address corrections and notices are not provided for customers who file a temporary change of address or for individuals at a business address (see F020.1.0). * * *

* * * * *

G General Information

G000 The USPS and Mailing Standards

* * * * *

G090 Experimental Classifications and Rates

G091 NetPost Mailing Online

* * * * *

4.0 POSTAGE AND FEES

4.1 Postage

[Revise 4.1 to read as follows:]

Documents mailed during the experiment are eligible for the following rate categories only:

a. First-Class Mail automation mixed AADC rates.

b. First-Class Mail automation mixed ADC rates.

c. First-Class Mail single-piece rates.

d. Regular Standard Mail automation letters mixed AADC rates.

e. Regular Standard Mail automation flats basic rates.

f. Nonprofit Standard Mail automation letters mixed AADC rates.

g. Nonprofit Standard Mail automation flats basic rates.

* * * * *

[Delete G094 in its entirety. The Ride-Along would become a permanent classification and the standards would be moved to new E260.]

* * * * *

L Labeling Lists

* * * * *

L800 Automation Rate Mailings

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[Amend the title and the first sentence in the summary of L802 by adding ''Bound Printed Matter'' to read as follows:]

L802 BMC/ASF Entry—Periodicals, Standard Mail, and Bound Printed Matter

Summary

L802 describes the service area by individual 3-digit ZIP Code prefix for mixed automation rate Periodicals, Standard Mail, and Bound Printed Matter mailings entered at an ASF or BMC. * * *

[Amend the title and the first sentence in the summary of L803 by adding ''Bound Printed Matter'' to read as follows:]

L803 Non-BMC/ASF Entry—Periodicals, Standard Mail, and Bound Printed Matter

Summary

L803 describes the service area by individual 3-digit ZIP Code prefix for mixed automation rate Periodicals, Standard Mail, and Bound Printed Matter mailings.* * *

* * * * *

M Mail Preparation and Sortation

M000 General Preparation Standards

M010 Mailpieces

M011 Basic Standards

1.0 TERMS AND CONDITIONS

* * * * *

1.3 Preparation Instructions

For purposes of preparing mail:

* * * * *

[Amend 1.3b to show that a full letter tray can be anywhere between 75% and 100% full (the preferred default for presort software is 85%) full to read as follows:]

b. A full letter tray is one in which faced, upright pieces fill the length of the tray between 75% and 100% full.

* * * * *

1.4 Mailing

Mailings are defined as:

* * * * *

[Combine 1.4c with 1.4b. Redesignate 1.4d through 1.4f as 1.4c through 1.4e, respectively. Amend 1.4b to remove references to the upgradable preparation and to show that machinable and nonmachinable pieces cannot be part of the same mailing to read as follows:]

b. First-Class Mail. Cards and letters must be prepared as separate mailings except that they may be sorted together if each meets separate minimum volume mailing requirements. The following types of First-Class Mail may not be part of the same mailing despite being in the same processing category:

(1) Automation rate and any other type of mail.

(2) Presorted rate and any other type of mail.

(3) Single-piece rate and any other type of mail.

(4) Machinable and nonmachinable pieces.

* * * * *

[Amend redesignated 1.4d to remove references to the upgradable preparation, to show that machinable and nonmachinable pieces cannot be part of the same mailing, and to show that ECR letter rate pieces and ECR nonletter rate pieces cannot be part of the same mailing.]

d. Standard Mail. Except as provided in E620.1.2, the types of Standard Mail listed below may not be part of the same mailing. See M041, M045, and M610, and M620 for copalletized, combined, or mixed rate level mailings.

(1) Automation Enhanced Carrier Route and any other type of mail.

(2) Regular automation rate and any other type of mail.

(3) Enhanced Carrier Route and any other type of mail.

(4) Enhanced Carrier Route letter rate pieces and Enhanced Carrier Route nonletter rate pieces.

(5) Presorted rate mail and any other type of mail.

(6) Machinable and nonmachinable pieces.

(7) Except as provided by standard, Regular rate mail may not be in the same mailing as Nonprofit rate mail, and Enhanced Carrier Route mail may not be in the same mailing as Nonprofit Enhanced Carrier Route mail.

* * * * *

M012 Markings and Endorsements

* * * * *

2.0 MARKINGS—FIRST-CLASS MAIL AND STANDARD MAIL

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2.2 Exceptions to Markings

[Amend 2.2d to update the required MLOCR markings:]Exceptions are as follows:

* * * * *

d. MLOCR Prepared Automation Mailings. The basic marking must appear in the postage area on each piece as required in 2.1a. The other ''AUTO'' marking described in 2.1b must be replaced by the appropriate Identifier/Rate Code marking as described in P960 on those pieces that have the marking applied by an MLOCR. This seven-character marking provides a description of the Product Month Designator, MASS/FASTforward System Identifier, postage payment method, and the rate of postage affixed for metered and precanceled stamp mail or other postage information for permit imprint mail.

3.0 MARKINGS—PACKAGE SERVICES

* * * * *

3.3 Additional Bound Printed Matter Markings

[Revise 3.3 to read as follows:]

In addition to the basic marking in 3.1, each piece of Bound Printed Matter mailed at a presorted or carrier route rate must bear additional rate markings. The additional markings may be placed in the postage area as specified in 3.1. Alternatively, these markings may be placed in the address area on the line directly above or two lines above the address if the marking appears alone, or if no other information appears on the line with the marking except postal optional endorsement line information under M013 or postal carrier route package information under M014. The additional rate markings are:

a. For presorted rate mail, the additional required marking is ''Presorted'' (or ''PRSRT''). For presorted automation rate flats prepared under M820, the optional marking ''AUTO'' may be used in place of ''Presorted'' (or ''PRSRT''). If the ''AUTO'' marking is not used, the automation rate flats must bear the ''Presorted'' (or ''PRSRT'') rate marking.

b. For carrier route rate mail, the additional required marking is ''Carrier Route Presort'' (or ''CAR-RT SORT'').

* * * * *

4.0 ENDORSEMENTS—DELIVERY AND ANCILLARY SERVICES

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[Remove 4.5, OCR Read Area.]

* * * * *

M020 Packages

* * * * *

1.0 BASIC STANDARDS

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[Amend the title and text of 1.6 to include Media Mail and Library Mail to read as follows:]

1.6 Package Size—Bound Printed Matter, Media Mail, and Library Mail

Each logical package (the total group of pieces for a package destination) of Bound Printed Matter, Media Mail, and Library Mail must meet the applicable minimum and maximum package size standards in M045, M722, M730, or M740. The pieces in the logical package must then be secured in a physical package or packages. Wherever possible, each physical package for a logical package destination should contain at least the minimum package size. The size of each physical package for a specific logical package destination may, however, contain the exact package minimum, more pieces than the package minimum, or fewer pieces than the package minimum depending on the size of the pieces in the mailing or the total quantity of the pieces to that destination. Unless otherwise noted, the maximum weight for packages in sacks is 20 pounds. Except for mixed ADC packages and for carrier route packages prepared in sacks, each physical package of Bound Printed Matter must contain at least two pieces. For carrier route rate Bound Printed Matter mail prepared in sacks, the last physical package to an individual carrier route destination may consist of a single addressed piece, provided that all other packages to that carrier route destination contain at least two addressed pieces, and that the total group of pieces to that carrier route (the ''logical'' package) meets the carrier

route rate eligibility minimum in E712. Packages prepared on pallets must meet the additional packaging requirements under M045 and each physical package, including Carrier Route rate mail, must always contain at least two pieces. Packages of Bound Printed Matter automation flats must meet be prepared under M820.

* * * * *

[Amend the title in 2.0 to read as follows:]

2.0 ADDITIONAL STANDARDS

2.1 Cards and Letter-Size Pieces

Cards and letter-size pieces are subject to these packaging standards:

* * * * *

[Amend 2.1c to remove references to the upgradable preparation for First-Class Mail and Standard Mail and to show that nonmachinable and ''manual only'' pieces must be packaged to read as follows:]

c. Packages must be prepared for mail in all less-than-full trays and 3-digit carrier routes trays; for nonmachinable Presorted First-Class Mail; for nonmachinable Presorted Standard Mail; for First-Class Mail and Standard Mail pieces where the mailer has requested manual only processing; and for nonautomation Periodicals.

* * * * *

2.2 Flat-Size Pieces

[Amend 2.2 to add references to Media Mail and Library Mail to read as follows:]

Packages of flat-size pieces must be secure and stable subject to the following:

a. If placed on pallets, the specific weight limits in M045.

b. If placed in sacks:

(1) For Periodicals and Standard Mail, the specific weight and height limits in 1.8.

(2) For Bound Printed Matter, the specific weight limits in M720

(3) For Media Mail and Library Mail, the specific weight limits in M730 and M740, as applicable.

* * * * *

M030 Containers

M031 Labels

* * * * *

4.0 PALLET LABELS

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[Amend the title and text of 4.9 for clarity to read as follows:]

4.9 Barcoded Status

Pallet labels must indicate whether the mail on the pallet is barcoded, or not barcoded, or both. Specific Line 2 label information is in M045, M920, M930, and M940.

* * * * *

5.0 SECOND LINE CODES

The codes shown below must be used as appropriate on Line 2 of sack, tray, and pallet labels.

[Amend the table in 5.0 to add a second line code for manual letter-size pieces and to revise the entries for carrier routes, letters, and machinable parcels. The entries are to be inserted in alphabetical order to read as follows:]

Content type	Code
[Revise the code for Carrier Routes to add a new code:] Carrier Routes	CR–RT or CR–RTS.
[Revise the code for Letters to add a new code:] Letters	LTR or LTRS.
[Revise the entry for Machinable to apply to all classes and processing categories:] Machinable	MACH.
[Add a new entry for manual processing:] Manual (cannot be processed on automated equipment)	MAN or MANUAL.

M032 Barcoded Labels

1.0 BASIC STANDARDS—TRAY AND SACK LABELS

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Exhibit 1.3a 3-Digit Content Identifier Numbers

[Amend Exhibit 1.3a by adding new categories and CINs. Also, in the human-readable content line for First-Class Mail and Standard Mail letters, replace ''LTRS'' with ''LTR'' and ''CR–RTS'' with ''CR–RT.'' The footnotes are unchanged.]

Class and mailing	CIN	Human-readable content line
FIRST-CLASS MAIL		
[For ''FCM Letters—Automation,'' in the human-readable content line, replace ''LTRS'' with ''LTR'' and ''CR–RTS'' with ''CR–RT'' for all entries. Amend the human-readable content line for the 5-digit carrier routes trays for consistency:]		
5-digit carrier routes trays	264	FCM LTR 5D CR–RT BC
[For ''FCM Letters—Presorted (Basic Preparation),'' change the title and human-readable content line information.]		
FCM Letters—Presorted Nonmachinable (requires or requests manual processing)		
5-digit trays	267	FCM LTR 5D MANUAL
3-digit trays	269	FCM LTR 3D MANUAL
ADC trays	270	FCM LTR ADC MANUAL
Mixed ADC trays	268	FCM LTR MANUAL WKG
[Delete the entry for ''FCM Letters—Presorted (Nonautomation Processing).'']		
[For ''FCM Letters—Presorted (Upgradable Preparation),'' change the title and human-readable content line information to read as follows:]		
FCM Letters—Presorted Machinable		

Class and mailing	CIN	Human-readable content line
5-digit trays	252	FCM LTR 5D MACH
3-digit trays	255	FCM LTR 3D MACH
AADC trays	258	FCM LTR AADC MACH
Mixed AADC trays	260	FCM LTR MACH WKG
STANDARD MAIL		
[For ''Enhanced Carrier Route Letters—Automation,'' in the human-readable content line, replace ''LTRS'' with ''LTR'' and ''CR–RTS'' with ''CR–RT'' for all entries. Amend the human-readable content line for the 5-digit carrier routes trays for consistency:]		
5-digit carrier routes trays	564	STD LTR 5D CR–RT BC
[For ''Enhanced Carrier Route Letters—Nonautomation,'' change the title and human-readable content line information to show that saturation and high-density letters must be barcoded to read as follows:]		
Enhanced Carrier Route Letters—Barcoded		
Saturation rate trays	557	STD LTR BC WSS (1)
High density rate trays	557	STD LTR BC WSH (1)
Basic rate trays	557	STD LTR BC LOT (1)
5-digit carrier routes trays	564	STD LTR 5D CR–RT BC
3-digit carrier routes trays	565	STD LTR 3D CR–RT BC
[Add the following entry for ECR letters that are not barcoded but are machinable (for mailers who choose not to barcode their machinable pieces):]		
Enhanced Carrier Route Letters—Nonautomation (Not Barcoded but Machinable)		
Saturation rate trays	569	STD LTR MACH WSS (1)
High density rate trays	569	STD LTR MACH WSH (1)
Basic rate trays	569	STD LTR MACH LOT (1)
5-digit carrier routes trays	567	STD LTR 5D CR–RT MACH
3-digit carrier routes trays	567	STD LTR 3D CR–RT MACH
[Add the following entry for ECR letters that are not machinable (regardless of whether the pieces are barcoded):]		
Enhanced Carrier Route Letters—Nonautomation (Nonmachinable)		
Saturation rate trays	608	STD LTR MAN WSS (1)
High density rate trays	608	STD LTR MAN WSH (1)
Basic rate trays	608	STD LTR MAN LOT (1)
5-digit carrier routes trays	609	STD LTR 5D CR–RT MAN
3-digit carrier routes trays	611	STD LTR 3D CR–RT MAN
[For ''STD Letters—Automation,'' in the human-readable content line, replace ''LTRS'' with ''LTR'' for all entries.]		
[For ''STD Letters—Presorted (Basic Preparation)'' change the title and the human-readable content line information to read as follows:]		
STD Letters—Presorted Nonmachinable (requires or requests manual processing)		
5-digit trays	604	STD LTR 5D MANUAL
3-digit trays	606	STD LTR 3D MANUAL
ADC trays	607	STD LTR ADC MANUAL
Mixed ADC trays	605	STD LTR MANUAL WKG
[Delete the entry for ''STD Letters—Presorted (Nonautomation Processing).'']		
[For ''STD Letters—Presorted (Upgradable Preparation),'' change the title and the human-readable content line information to read as follows:]		
STD Letters—Presorted Machinable		
5-digit trays	552	STD LTR 5D MACH
3-digit trays	555	STD LTR 3D MACH
AADC trays	558	STD LTR AADC MACH
Mixed AADC trays	560	STD LTR MACH WKG
PACKAGES SERVICES		
Bound Printed Matter Flats—Automation		
5-digit sacks	635	PSVC FLTS 5D BC
3-digit sacks	636	PSVC FLTS 3D BC
SCF sacks	637	PSVC FLTS SCF BC
ADC sacks	638	PSVC FLTS ADC BC
Mixed ADC sacks	639	PSVC FLTS BC WKG
Media Mail and Library Mail Flats—Presorted		
5-digit sacks	649	PSVC FLTS 5D NON BC
3-digit sacks	650	PSVC FLTS 3D NON BC
ADC sacks	651	PSVC FLTS ADC NON BC

Class and mailing	CIN	Human-readable content line
Mixed ADC sacks	653	PSVC FLTS NON BC WKG
Media Mail and Library Mail Irregular Parcels—Presorted		
5-digit sacks	690	PSVC IRREG 5D
5-digit scheme sacks	690	PSVC IRREG 5D SCH
3-digit sacks	691	PSVC IRREG 3D
ADC sacks	692	PSVC IRREG ADC
Mixed ADC sacks	694	PSVC IRREG WKG
Media Mail and Library Mail Machinable Parcels—Presorted		
5-digit sacks	680	PSVC MACH 5D
5-digit scheme sacks	680	PSVC MACH 5D SCH
ASF sacks	682	PSVC MACH ASF
BMC sacks	683	PSVC MACH BMC
Mixed BMC sacks	684	PSVC MACH WKG

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M033 Sacks and Trays

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2.0 FIRST-CLASS MAIL, PERIODICALS, AND STANDARD MAIL

2.1 Letter Tray Preparation

[Revise 2.1 in its entirety to reorganize and clarify the standards for letter trays to read as follows:]

Letter trays are prepared as follows:

a. Subject to availability of equipment, standard managed mail (MM) trays must be used for all letter-size mail, except that extended MM (EMM) trays must be used when available for letter-size mail that exceeds the height or width (inside dimensions) of MM trays defined in 1.3. When EMM trays are not available for those larger pieces, they must be placed in MM trays, angled back, or placed upright perpendicular to the length of the tray in row(s) to preserve their orientation.

b. Pieces must be ''faced'' (oriented with all addresses in the same direction with the postage area in the upper right).

c. Each tray prepared must be filled before filling the next tray, with the contents in multiple trays relatively balanced. When preparing full trays, mailers must fill all possible 2-foot trays first; if there is mail remaining for the presort destination, then mailers must use a combination of 1-foot and 2-foot trays that results in the fewest total number of trays.

d. For presort destinations that do not require full trays, pieces are placed in a less-than-full tray.

e. Mailers must use as few trays as possible without jeopardizing rate eligibility. For instance, a mailer will never have two 1-foot trays to a single destination; that mail must be placed in a single 2-foot tray. A 1-foot tray is prepared only if it is a full tray with no overflow; or if there is less than 1 foot of mail for that destination; or if the overflow from a full 2-foot tray is less than 1 foot of mail.

f. Each tray must bear the correct tray label.

g. Each tray must be sleeved and strapped under 1.5 and 1.6.

h. If a mailing is prepared using an MLOCR/barcode sorter and is submitted with standardized documentation, then pieces do not have to be grouped by 3-digit ZIP Code prefix (or by 3-digit scheme, if applicable) in AADC trays, or by AADC in mixed AADC trays.

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M040 Pallets

M041 General Standards

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5.0 PREPARATION

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5.3 Minimum Load

These standards apply to:

[Amend 5.3a to show that letter trays on pallets are measured by linear feet, not by the number of layers of trays to read as follows:]

a. Periodicals, Standard Mail, and Package Services (except for Parcel Post mailed at BMC Presort, OBMC Presort, DSCF, and DDU rates). In a single mailing, the minimum load per pallet is 250 pounds of packages, parcels, or sacks; or 36 linear feet letter trays. In a mailing or mailing job presented for acceptance at a single postal facility, one overflow pallet with less than the required minimum may be prepared for mail destinating in the service area of the entry facility; that pallet must be properly labeled under M045. Exceptions: There is no minimum load for pallets entered at a DDU if the mail on those pallets is for that DDU's service area. For mail entered at an SCF, the SCF manager must authorize in writing preparation of any 5-digit, 3-digit, or SCF pallet containing less than the minimum required load if the mail on those pallets is for that SCF's service area.

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5.5 Maximum Load

[Amend 5.5 to show that all pallets are measured in inches, not in the number of layers of trays to read as follows:]

The maximum weight (mail and pallet) is 2,200 pounds. The maximum height of a single pallet (pallet, mail, and top cap) is 77 inches. Exception: A single pallet that is prepared for entry at Anchorage or Fairbanks, AK, may not exceed a maximum height of 72 inches (pallet, mail, and top cap).

5.6 Mail on Pallets

These standards apply to mail on pallets:

* * * * *

[Redesignate 5.6d through 5.6h as 5.6e through 5.6i, respectively. Add new 5.6d to show that letter trays on pallets are measured by linear feet, not by the number of layers of trays to read as follows:]

d. For determining minimum pallet volume, mail in letter trays is measured in linear feet. A 2-foot tray equals 2 linear feet; a 1-foot tray equals 1 linear foot.

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M045 Palletized Mailings

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3.0 PALLET PRESORT AND LABELING

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3.2 Standard Mail Packages, Sacks, Irregular Parcels, or Trays on Pallets

Mailers must prepare pallets in the sequence listed below, except that mailings of sacks and trays must be prepared beginning with 3.2c (because scheme sort is not permitted). Pallets must be labeled according to the Line 1 and Line 2 information listed below and

under M031. At the mailer's option, packages of Standard Mail flats may be palletized using the advanced presort options under M920, M930, or M940.

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[Amend 3.2c to show that pallets of carrier route letters must show on Line 2 of the pallet label whether the pieces are barcoded or not barcoded to read as follows:]

c. 5-Digit Carrier Routes. Required for sacks and packages; optional for trays. May contain only carrier route rate mail for the same 5-digit ZIP Code.

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code on mail, preceded for military mail by correct prefix in M031.

(2) Line 2: For flats and irregulars, ''STD FLTS'' or ''STD IRREG''; followed by ''CARRIER ROUTES'' or ''CR–RTS.'' For trays, ''STD LTRS''; followed by ''CARRIER ROUTES'' or ''CR–RTS''; followed by ''BC'' if the pallet contains barcoded letters; followed by ''MACH'' if the pallet contains nonbarcoded machinable letters; followed by ''MAN'' if the pallet contains nonmachinable letters.

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[Amend 3.2e through 3.2i to show that pallets must indicate on Line 2 of the pallet label whether the pieces are barcoded (''BC''), not barcoded but machinable (''MACH''), or nonmachinable (''MAN'') to read as follows:]

e. 3-Digit. Optional. May contain carrier route rate, automation rate, and/or Presorted rate mail.

(1) Line 1: use L002, Column A.

(2) Line 2: For flats and irregulars, ''STD FLTS 3D'' or ''STD IRREG 3D''; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate and/or carrier route rate mail. For letters, ''STD LTRS 3D''; followed by ''BC'' if the pallet contains barcoded letters; followed by ''MACH'' if the pallet contains nonbarcoded machinable letters; followed by ''MAN'' if the pallet contains nonmachinable letters.

f. SCF. Required. May contain carrier route rate, automation rate, and/or Presorted rate mail.

(1) Line 1: use L002, Column C.

(2) Line 2: For flats and irregulars, ''STD FLTS SCF'' or ''STD IRREG SCF'; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate and/or carrier route rate mail. For letters, ''STD LTRS SCF''; followed by ''BC'' if the pallet contains barcoded letters; followed by ''MACH'' if the pallet contains nonbarcoded machinable letters; followed by ''MAN'' if the pallet contains nonmachinable letters.

g. ASF. Required, except that an ASF sort may not be required if using package reallocation for flats to protect the BMC pallet under 5.0. May contain carrier route rate, automation rate, and/or Presorted rate mail. Sort ADC packages, trays, or sacks to ASF pallets based on the ''label to'' ZIP Code for the ADC destination of the package, tray, or sack in L004 (letters or flats) or L603 (irregular parcels). Sort AADC trays to ASF pallets based on the ''label to'' ZIP Code for the AADC destination of the tray in L801. See E650.5.0 for additional requirements for DBMC rate eligibility.

(1) Line 1: use L602.

(2) Line 2: For flats and irregulars, ''STD FLTS ASF'' or ''STD IRREG ASF'; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate and/or carrier route rate mail. For letters, ''STD LTRS ASF''; followed by ''BC'' if the pallet contains barcoded letters; followed by ''MACH'' if the pallet contains nonbarcoded machinable letters; followed by ''MAN'' if the pallet contains nonmachinable letters.

h. BMC. Required. May contain carrier route rate, automation rate, and/or Presorted rate mail. Sort ADC packages, trays, or sacks to BMC pallets based on the ''label to'' ZIP Code for the ADC destination of the package, tray, or sack in L004 (letters or flats) or L603 (irregular parcels). Sort AADC trays to BMC pallets based on the ''label to'' ZIP Code for the AADC destination of the tray in L801. See E650.5.0 for additional requirements for DBMC rate eligibility.

(1) Line 1: use L601.

(2) Line 2: For flats and irregulars, ''STD FLTS BMC'' or ''STD IRREG BMC'; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate and/or carrier route rate mail. For letters, ''STD LTRS BMC''; followed by ''BC'' if the pallet contains barcoded letters; followed by ''MACH'' if the pallet contains nonbarcoded machinable letters; followed by ''MAN if the pallet contains nonmachinable letters.

i. Mixed BMC (for sacks and trays on pallets only). Optional. May contain carrier route rate, automation rate, and/or Presorted rate mail.

(1) Line 1: use ''MXD'' followed by the information in L601, Column B, for the BMC serving the 3-digit ZIP Code prefix of the entry post office (label to plant serving entry post office if authorized by the processing and distribution manager).

(2) Line 2: For flats and irregulars, ''STD FLTS'' or ''STD IRREG'; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate and/or carrier route rate mail; followed by ''WKG.'' For letters, ''STD LTRS''; followed by ''BC'' if the pallet contains barcoded letters; followed by ''MACH'' if the pallet contains nonbarcoded machinable letters; followed by ''MAN if the pallet contains nonmachinable letters; followed by ''WKG.''

[Revise the title and text of 3.3a to read as follows:]

3.3 Package Services Flats—Packages and Sacks on Pallets

Mailers must prepare pallets in the sequence listed below, except that mailings of sacks on pallets must be prepared beginning with 3.3c. Pallets must be labeled according to the Line 1 and Line 2 information listed below and under M031.

a. 5-Digit Scheme Carrier Routes. Required for packages of BPM flats on pallets. Not permitted for sacks on pallets. May contain only carrier route rate packages for the same 5-digit scheme under L001. Scheme sort must be done for all 5-digit scheme destinations. For all 5-digit destinations that are not part of a scheme, prepare 5-digit carrier routes pallets under 3.3c.

(1) Line 1: use L001, Column B.

(2) Line 2: ''PSVC FLTS,'' followed by ''CARRIER ROUTES'' or ''CR–RTS'' and ''SCHEME'' or ''SCH.'' * * *

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[Amend the title of 3.4 by replacing Bound Printed Matter with Package Services Irregular Parcels to read as follows:]

3.4 Package Services Irregular Parcels—Packages and Sacks on Pallets

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[Revise the title of 3.5 to read as follows:]

3.5 Machinable Parcels—Standard Mail and Package Services

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[Remove section 3.6, Presorted Media Mail and Library Mail.]

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M050 Delivery Sequence

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4.0 DOCUMENTATION

4.1 General

[Amend the first paragraph of 4.1 to clarify that signing a postage statement

certifies the mail meets the requirements for the rates claimed to read as follows:]

For Periodicals, the postage statement must be annotated in the ''Sequencing Date'' block on each of the lines where carrier route basic, high density, and saturation per piece rate postage is reported. For Standard Mail, the postage statement must be annotated in the ''Sequencing Date'' block on the front of the postage statement where total postage for Enhanced Carrier Route rates is reported. The mailer must provide documentation to substantiate compliance with the standards for carrier route sequencing. The mailer's signature on the postage statement certifies that this standard has been met when the corresponding mail is presented to the USPS. Unless the documentation is submitted with the corresponding mailing, the mailer must be able to provide the USPS with documentation of accurate sequencing or delivery statistics for each carrier route to which walk-sequence and basic rate pieces are mailed. The mailer must annotate the postage statement to show the earliest (oldest) date of the method (in 4.1a through 4.1e) used to obtain sequencing information for the mailing. Acceptable forms of documentation are:

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M100 First-Class Mail (Nonautomation)

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M130 Presorted First-Class Mail

1.0 BASIC STANDARDS

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[Revise the title and text of 1.5 to read as follows:]

1.5 Nonmachinable Pieces

Nonmachinable cards and letters must use the preparation sequence in 3.0. Nonmachinable flats must use the preparation sequence in 4.0.

[Redesignate 1.6, Co-Traying With Automation Rate Mail, as 1.7. Add new 1.6 for the manual only option to read as follows:]

1.6 Manual Only Option

Mailers who prefer that the USPS not automate letter-size pieces (including cards) must use the packaging and tray preparation sequence for nonmachinable pieces in 3.0. The manual only option is not available for flats.

[Replace 2.0 with the preparation for cards and machinable letters to read as follows: (this preparation is very similar to the current upgradable preparation). Machinable pieces are packaged only to maintain their orientation in the tray.]

2.0 PREPARATION—MACHINABLE LETTER-SIZE PIECES

2.1 Packaging

Machinable pieces are not packaged, except for (see M020):

a. Card-size pieces.

b. All pieces in a less-than-full origin 3-digit tray.

c. All pieces in a less-than-full mixed AADC tray.

2.2 Tray Preparation and Labeling

Preparation sequence, tray size, and labeling:

a. 5-digit: optional; full trays only; no overflow.

(1) Line 1: use 5-digit ZIP Code on mail, preceded for military mail by correct prefix in M031.

(2) Line 2: ''FCM LTR 5D MACH.''

b. 3-digit: required; full trays only, except for one less-than-full tray for each origin 3-digit(s); no overflow.

(1) Line 1: use L002, Column A.

(2) Line 2: ''FCM LTR 3D MACH.''

c. AADC: required; full trays only; no overflow.

(1) Line 1: use L801, Column B.

(2) Line 2: ''FCM LTR AADC MACH.''

d. Mixed AADC: required; no minimum.

(1) Line 1: use ''MXD'' followed by city/state/ZIP Code of facility serving 3-digit ZIP Code prefix of entry post office, as shown in L002, Column C.

(2) Line 2: ''FCM LTR MACH WKG.''

[Replace 3.0, Upgradable Preparation, with the preparation instructions for nonmachinable and manual only cards and letters to read as follows:]

3.0 PREPARATION—NONMACHINABLE LETTER-SIZE PIECES

3.1 Packaging

Packaging is required. Mailers who prefer that the USPS not automate letter-size pieces must identify each package with a facing slip on which ''MANUAL ONLY'' is printed or use a ''MANUAL ONLY'' optional endorsement line (see M013).

Preparation sequence, package size, and labeling:

a. 5-digit: required (10-piece minimum); red Label D or optional endorsement line (OEL); labeling is not required for pieces in full 5-digit trays.

b. 3-digit: required (10-piece minimum); green Label 3 or OEL.

c. ADC: required (10-piece minimum); pink Label A or OEL.

d. Mixed ADC: required (no minimum); tan Label MXD or OEL.

3.2 Exception to Packaging

Under certain conditions, nonmachinable pieces may not need to be packaged (see M020.1.9).

3.3 Tray Preparation and Labeling

Preparation sequence, tray size, and labeling:

a. 5-digit: required; full trays only; no overflow.

(1) Line 1: use 5-digit ZIP Code on mail, preceded for military mail by correct prefix in M031.

(2) Line 2: ''FCM LTR 5D MANUAL.''

b. 3-digit: required; full trays only, except for one less-than-full tray for each origin 3-digit(s); no overflow.

(1) Line 1: use L002, Column A.

(2) Line 2: ''FCM LTR 3D MANUAL.''

c. ADC: required; full trays only; no overflow.

(1) Line 1: use L004, Column B.

(2) Line 2: ''FCM LTR ADC MANUAL.''

d. Mixed ADC: required; no minimum.

(1) Line 1: use ''MXD'' followed by city/state/ZIP Code of facility serving 3-digit ZIP Code prefix of entry post office, as shown in L002, Column C.

(2) Line 2: ''FCM LTR MANUAL WKG.''

[Revise the title of 4.0 to read as follows:]

4.0 PREPARATION—FLATS

* * * * *

[Redesignate 4.2 and 4.3 as 4.3 and 4.4, respectively. Add new 4.2 to show that flats do not have to be packaged under certain conditions to read as follows:]

4.2 Exception to Packaging

Under certain conditions, flat-size pieces may not need to be packaged (see M020.1.9).

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M200 Periodicals (Nonautomation)

M210 Presorted Rates

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[Remove section 6.0, Combining Multiple Publications or Editions.]

M220 Carrier Route Rates

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[Remove section 6.0, Combining Multiple Publications or Editions.][Add new M230 to read as follows:]

M230 Combining Multiple Editions or Publications

1.0 DESCRIPTION

A combined mailing is a mailing in which two or more Periodicals publications or editions are merged into a single mailstream, during production or after finished copies are produced,

and all copies of all the publications or editions are presorted together into packages to achieve the finest presort level possible for the combined mailing.

2.0 VOLUME

More than one Periodicals publication, or edition of a publication, may be combined to meet the volume standard per tray, sack, or package for the rate claimed.

3.0 EACH PIECE

Each piece must meet the basic standards in E211 and the specific standards of the rate claimed.

4.0 DOCUMENTATION

Presort documentation required under P012 must also show the total number of addressed pieces and copies of each publication or edition mailed to each carrier route, 5-digit, and 3-digit destination. The publisher must also provide a list, by 3-digit ZIP Code prefix, of the number of addressed pieces and copies of each publication or edition qualifying for the DDU, DSCF, and DADC rate, as applicable.

5.0 SEPARATE POSTAGE STATEMENTS

A separate postage statement must be prepared for the per pound postage computations for each publication or edition that is part of the combined mailing. The title and issue date of the publications with which each publication or edition was combined must be noted on, or attached to, the postage statements. The per piece postage computations for all other than preferred rate publications must be calculated on the postage statement for the publication containing the higher (or highest) amount of advertising. The per piece postage computations for all preferred rate publications must be calculated on the postage statement for the publication containing the higher (or highest) amount of advertising. The nonadvertising adjustment must be computed on the appropriate postage statement for each rate category based on the publication (or edition, if applicable) containing the higher (or highest) amount of advertising matter for that rate category.

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M600 Standard Mail (Nonautomation)

M610 Presorted Standard Mail

1.0 BASIC STANDARDS

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[Redesignate 1.5 and 1.6 as 1.6 and 1.7, respectively. Add new 1.5 to account for the new preparation for nonmachinable pieces to read as follows:]

1.5 Nonmachinable Pieces

Nonmachinable cards and letters must use the preparation sequence and tray labeling in 3.0.

[Revise the title and text of redesignated 1.6 to read as follows:]

1.6 Manual Only Option

Mailers who prefer that the USPS not automate letter-size pieces (including cards) must use the packaging and tray preparation sequence for nonmachinable pieces in 3.0. The manual only option is not available for flats.

[Replace 2.0 with the preparation for machinable cards and letters (this preparation is very similar to the current upgradable preparation). Machinable pieces are packaged only to maintain their orientation in the tray.]

2.0 PREPARATION—MACHINABLE LETTER-SIZE PIECES

2.1 Packaging

Machinable pieces are not packaged, except for (see M020):

a. Card-size pieces.

b. All pieces in a less-than-full origin 3-digit tray.

c. All pieces in a less-than-full mixed AADC tray.

2.2 Tray Preparation and Labeling

Only mail eligible for the 3/5 rate (i.e., 150 or more pieces for the 3-digit area) may be prepared in 5-digit and 3-digit trays. Preparation sequence, tray size, and labeling:

a. 5-digit: optional (full trays); no overflow.

(1) Line 1: use 5-digit ZIP Code on mail, preceded for military mail by correct prefix in M031.

(2) Line 2: ''STD LTR 5D MACH.''

b. 3-digit: required (no minimum).

(1) Line 1: use L002, Column A.

(2) Line 2: ''STD LTR 3D MACH.''

c. Origin 3-digit(s): required (no minimum); optional for entry 3-digit(s) (no minimum).

(1) Line 1: use L002, Column A.

(2) Line 2: ''STD LTR 3D MACH.''

d. AADC: required (full trays); no overflow; group pieces by 3-digit ZIP Code prefix.

(1) Line 1: use L801.

(2) Line 2: ''STD LTR AADC MACH.''

e. Mixed AADC: required (no minimum); group pieces by AADC.

(1) Line 1: use L802 (for mail entered at an ASF or BMC) or L803.

(2) Line 2: ''STD LTR MACH WKG.''

[Replace 3.0, Upgradable Preparation, with the new preparation for nonmachinable piece to read as follows:]

3.0 PREPARATION—NONMACHINABLE LETTER-SIZE PIECES

3.1 Packaging

Packaging is required for nonmachinable pieces and for any pieces that mailers do not want the USPS to automate. Mailers who prefer that the USPS not automate their pieces must identify each package with a facing slip on which ''MANUAL ONLY'' is printed or use a ''MANUAL ONLY'' optional endorsement line (see M013). Preparation sequence, package size, and labeling:

a. 5-digit: required (10-piece minimum, fewer not permitted); red Label D or optional endorsement line (OEL); labeling is not required for pieces in full 5-digit trays.

b. 3-digit: required (10-piece minimum, fewer not permitted); green Label 3 or OEL.

c. ADC: required (10-piece minimum, fewer not permitted); pink Label A or OEL.

d. Mixed ADC: required (no minimum); tan Label MXD or OEL.

3.2 Exception to Packaging

Under certain conditions, nonmachinable pieces may not need to be packaged (see M020.1.9).

3.3 Tray Preparation and Labeling

Only mail eligible for the 3/5 rate (i.e., 150 or more pieces for the same 3-digit area) may be prepared in 5-digit and 3-digit trays. Preparation sequence, tray size, and labeling:

a. 5-digit: required (full trays); no overflow.

(1) Line 1: use 5-digit ZIP Code on mail, preceded for military mail by correct prefix in M031.

(2) Line 2: ''STD LTR 5D MANUAL.''

b. 3-digit: required (no minimum).

(1) Line 1: use L002, Column A.

(2) Line 2: ''STD LTR 3D MANUAL.''

c. Origin 3-digit(s): required (one-package minimum); optional for entry 3-digit(s) (no minimum).

(1) Line 1, use L002, Column A.

(2) Line 2: ''STD LTR 3D MANUAL.''

d. ADC: required (full trays); no overflow.

(1) Line 1, use L004.

(2) Line 2: ''STD LTR ADC MANUAL.''

e. Mixed ADC: required (no minimum).

(1) Line 1: use ''MXD'' followed by city/state/ZIP Code of ADC serving 3-digit ZIP Code prefix of entry post office, as shown in L004.

(2) Line 2: ''STD LTR MANUAL WKG.''

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M620 Enhanced Carrier Route Standard Mail

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3.0 TRAY PREPARATION—LETTER-SIZE PIECES

[Merge current 3.1 and 3.2 into a single 3.1 and amend the Line 2 information to show the barcoded status to read as follows:]

3.1 Tray Preparation and Labeling

Preparation sequence, tray size, and labeling:

a. Carrier route: required; full trays only, no overflow.

(1) Line 1: use 5-digit ZIP Code on package, preceded for military mail by correct prefix in M031.

(2) Line 2:

(a) Saturation: ''STD LTR BC WSS,'' followed by route type and number.

(b) High density: ''STD LTR BC WSH,'' followed by route type and number.

(c) Basic: ''STD LTR BC LOT,'' followed by route type and number.

b. 5-digit carrier routes: required if full tray, optional with minimum one 10-piece package.

(1) Line 1: use 5-digit ZIP Code on package, preceded for military mail by correct prefix in M031.

(2) Line 2: ''STD LTR 5D CR-RT BC.''

c. 3-digit carrier routes: optional with minimum one 10-piece package for each of two or more 5-digit areas.

(1) Line 1: use city/state/ZIP Code shown in L002, Column A, that corresponds to 3-digit ZIP Code prefix on package.

(2) Line 2: ''STD LTR 3D CR-RT BC.''

[Add new 3.2 to show the Line 2 information for trays containing mail that is machinable but is not barcoded to read as follows:]

3.2 Tray Line 2 for Machinable Nonbarcoded Pieces

For trays that contain letter-size pieces that are machinable but not barcoded, use ''MACH'' on Line 2 in place of ''BC.''

[Add new 3.3 to show the Line 2 information for trays containing mail that is nonmachinable (barcoded or not) to read as follows:]

3.3 Tray Line 2 for Nonmachinable Pieces

For trays that contain letter-size pieces that are nonmachinable, use ''MAN'' on Line 2 in place of ''BC.''

[Add new 3.4 to show Line 2 information for trays containing simplified address pieces to read as follows:]

3.4 Tray Line 2 for Pieces with Simplified Address

For trays that contain letter-size pieces that bear a simplified address, use ''MAN'' on Line 2 in place of ''BC.''

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M700 Package Services

M710 Parcel Post

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2.0 DSCF RATE

[Amend 2.1 to add DSCF rate 3-digit nonmachinable parcels to read as follows:]

2.1 General

To qualify for the DSCF rate, pieces must be for the same SCF area under L005 and must be prepared as follows:

a. Sorted to optional 5-digit scheme destinations under L606, Column B, and 5-digit destinations, either in sacks under 2.2 or directly on pallets or in pallet boxes on pallets under M041 and M045. Pieces must be part of a mailing of at least 50 Parcel Post pieces. They must be entered at the designated SCF under L005 that serves the 5-digit ZIP Code destinations of the pieces except when palletized and entry is required at a BMC (see Exhibit E751.6.0). The DSCF rate is not available for palletized mail for facilities that are unable to handle palletized mailings. Refer to the Drop Shipment Product available from the National Customer Support Center (NCSC) (see G043) and Exhibit E751.7.0 and Exhibit E751.8.0 to determine if the facility serving the 5-digit destination can handle pallets. There is a charge for the Drop Shipment Product.

b. Any remaining nonmachinable parcels (as defined in C700.2.0) sorted to 3-digit ZIP Code prefixes L002; Column A. Machinable parcels may not be sorted to the 3-digit level.

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M720 Bound Printed Matter

M721 Single-Piece Bound Printed Matter

1.0 BASIC STANDARDS

1.1 General

[Amend 1.1 by adding a sentence at the end for barcoded single-piece rate Bound Printed Matter to read as follows:]

* * * Bound Printed Matter claiming a barcoded discount must meet the applicable standards in E712.

* * * * *

M730 Media Mail

[Revise 1.0 to read as follows:]

1.0 BASIC STANDARDS

1.1 General

There are no presort, sacking, or labeling standards for single-piece Media Mail. All mailings of presorted Media Mail are subject to the standards in 2.0 through 4.0 and to these general requirements:

a. Each mailing must meet the applicable standards in E710, E713, and in M010, M020, and M030.

b. All pieces in a mailing must be within the same processing category as described in C050. A Media Mail irregular parcel is a piece that is not a machinable parcel as defined in C050.4.1 or a flat as defined in C050.3.1. Pieces that meet the size and weight standards for a machinable parcel but are not individually boxed or packaged to withstand processing on BMC parcel sorters under C010 also are irregular parcels.

c. All pieces must be sorted to the finest extent possible under 2.0 through 4.0 or palletized under M045.

d. Each piece claimed at Media Mail rates must be marked ''Media Mail'' under M012. Each piece claimed at presorted Media Mail rates also must be marked ''Presorted'' or ''PRSRT'' under M012.

1.2 Documentation

A complete, signed postage statement, using the correct USPS form or an approved facsimile, must accompany each mailing. Documentation of postage is not required if the correct rate is affixed to each piece or if each piece is of identical weight, and the pieces are separated by rate level at the time of mailing.

[Revise 2.0 to read as follows:]

2.0 PREPARATION—FLATS

2.1 Required Packaging

A package must be prepared when the quantity of addressed pieces for a required presort level reaches a minimum of 10 pieces. Smaller volumes are not permitted. The maximum weight of each physical package is 20 pounds, except that 5-digit packages placed in 5-digit sacks may weigh a maximum of 40 pounds. Each physical package must contain at least two addressed pieces.

2.2 Package Preparation

Packages must be prepared and labeled in the following required sequence:

a. 5-digit: required; red Label D or optional endorsement line (OEL).

b. 3-digit: required; green Label 3 or OEL.

c. ADC: required; pink Label A or OEL.

d. Mixed ADC: required (no minimum); tan Label MXD or OEL.

2.3 Required Sacking

A sack must be prepared when the quantity of mail for a required presort destination reaches the minimums specified in 2.4. Smaller volumes are not permitted.

2.4 Sack Preparation and Labeling

Sacks must be prepared and labeled in the following sequence:

a. 5-digit: optional, except required for 5-digit rate (10 piece minimum).

(1) Line 1: use 5-digit ZIP Code on packages, preceded for military mail by correct prefix in M031.

(2) Line 2: ''PSVC FLTS 5D NON BC.''

b. 3-digit: required (20 piece minimum).

(1) Line 1: use L002, Column A.

(2) Line 2: ''PSVC FLTS 3D NON BC.''

c. ADC: required (20 piece minimum).

(1) Line 1: use L004, Column B.

(2) Line 2: ''PSVC FLTS ADC NON BC.''

d. Mixed ADC: required (no minimum).

(1) Line 1: use ''MXD'' followed by city/state/ZIP Code of ADC serving 3-digit ZIP Code prefix of entry post office, as shown in L004, Column B.

(2) Line 2: ''PSVC FLTS NON BC WKG.''

[Add new 3.0 to read as follows:]

3.0 PREPARATION—IRREGULAR PARCELS

3.1 Required Packaging

A package must be prepared when the quantity of addressed pieces for a required presort level reaches a minimum of 10 pieces, except that packaging is not required for pieces placed in 5-digit scheme sacks and 5-digit sacks when such pieces are enclosed in an envelope, full-length sleeve, full-length wrapper, or polybag and the minimum package volume is met. The maximum weight of each physical package is 20 pounds, except that 5-digit packages placed in 5-digit sacks may weigh a maximum of 40 pounds. Each physical package must contain at least two addressed pieces. Packaging is also subject to these conditions:

a. Identical-weight pieces that weigh 1 pound or less must be prepared using the 10-piece minimum; those that weigh more than 1 pound must be prepared using the 10-pound minimum.

b. For nonidentical-weight pieces, mailers must either use the minimum that applies to the average piece weight for the entire mailing (divide the net weight of the mailing by the number of pieces; the resulting average single-piece weight determines whether the 10-piece or 10-pound minimum applies), or package by the actual piece count or mail weight for each sack, if documentation can be provided with the mailing that shows (specifically for each sack) the number of pieces in each package and their total weight.

c. Mailers must note on the accompanying postage statement whether they applied the piece count, weight, or both.

3.2 Package Preparation

Packages must be prepared and labeled in the following sequence:

a. 5-digit: required; red Label D or optional endorsement line (OEL).

b. 3-digit: required; green Label 3 or OEL.

c. ADC: required; pink Label A or OEL.

d. Mixed ADC: required (no minimum); tan Label MXD or OEL.

3.3 Required Sacking

A sack must be prepared when the quantity of mail for a required presort destination reaches either 10 addressed pieces or 20 pounds, whichever occurs first. Smaller volumes are not permitted (except in mixed ADC sacks). Optional 5-digit scheme sacks may be prepared only when there are at least 10 addressed pieces or 20 pounds. Smaller volumes are not permitted. Sacking is also subject to these conditions:

a. Identical-weight pieces weighing 2 pounds or less must be sacked using the 10-piece minimum; those that weigh more must be sacked using the 20-pound minimum.

b. For nonidentical-weight pieces, mailers must use either the minimum that applies to the average piece weight for the entire mailing (divide the net weight of the mailing by the number of pieces; the resulting average single-piece weight determines whether the 10-piece or 20-pound minimum applies). Alternatively, mailers may sack by the actual piece count or mail weight for each destination, provided that documentation can be provided with the mailing that shows (specifically for each sack) the number of pieces in each sack and their total weight.

c. Mailers must note on the accompanying postage statement whether they applied the piece count, weight, or both.

3.4 Sack Preparation and Labeling

Sacks must be prepared and labeled in the following sequence:

a. 5-digit scheme: optional.

(1) Line 1: use L606, Column B.

(2) Line 2: ''PSVC IRREG 5D SCHEME'' or ''PSVC IRREG 5D SCH.''

b. 5-digit: required.

(1) Line 1: use 5-digit ZIP Code on packages, preceded for military mail by correct prefix in M031.

(2) Line 2: ''PSVC IRREG 5D.''

c. 3-digit: required.

(1) Line 1: use L002, Column A.

(2) Line 2: ''PSVC IRREG 3D.''

d. ADC: required.

(1) Line 1: use L004, Column B.

(2) Line 2: ''PSVC IRREG ADC.''

e. Mixed ADC: required (no minimum).

(1) Line 1: use ''MXD'' followed by city/state/ZIP Code of ADC serving 3-digit ZIP Code prefix of entry post office, as shown in L004, Column B.

(2) Line 2: ''PSVC IRREG WKG.''

[Add new 4.0 to read as follows:]

4.0 PREPARATION—MACHINABLE PARCELS

4.1 Sacking

A sack must be prepared when the quantity of mail for a required presort destination reaches 7 addressed pieces or 20 pounds whichever occurs first for optional 5-digit scheme or 5-digit sacks, or 10 pieces or 20 pounds whichever occurs first for BMC sacks. Smaller volumes are not permitted. Sacking also is subject to these conditions:

a. Identical-weight pieces that weigh 2 pounds or less must be sacked using the 10-piece minimum; those that weigh more must be sacked using the 20-pound minimum.

b. For nonidentical-weight pieces, mailers must use either the minimum that applies to the average piece weight for the entire mailing (divide the net weight of the mailing by the number of pieces; the resulting average single-piece weight determines whether the 10-piece or 20-pound minimum applies) or sack by the actual piece count or mail weight for each package destination, provided that documentation can be provided with the mailing that shows (specifically for each sack) the number of pieces and their total weight.

c. Mailers must note on the accompanying postage statement whether they applied the piece count, weight, or both.

4.2 Sack Preparation and Labeling

Sacks must be prepared and labeled in the following sequence:

a. 5-digit scheme: optional.

(1) Line 1: use L606, Column B.

(2) Line 2: ''PSVC MACH 5D SCHEME'' or ''PSVC MACH 5D SCH.''

b. 5-digit: required.

(1) Line 1: use 5-digit ZIP Code on parcels, preceded for military mail by correct prefix in M031.

(2) Line 2: ''PSVC MACH 5D.''
c. BMC: required.
(1) Line 1: use L601, Column B.
(2) Line 2: ''PSVC MACH BMC.''
d. Mixed BMC: required (no minimum).
(1) Line 1: ''MXD'' followed by information in L601, Column B, for BMC serving 3-digit ZIP Code of entry post office.
(2) Line 2: ''PSVC MACH WKG.''

M740 Library Mail

1.0 BASIC STANDARDS

[Revise 1.0 to read as follows:]

1.1 General

There are no presort, sacking, or labeling standards for single-piece Library Mail. All mailings of Presorted Library Mail are subject to the standards in 2.0 through 4.0 and to these general standards:
a. Each mailing must meet the applicable standards in E710, E714, and in M010, M020, and M030.
b. All pieces in a mailing must be within the same processing category as described in C050. A Library Mail irregular parcel is a piece that is not a machinable parcel as defined in C050.4.1 or a flat as defined in C050.3.1. Pieces that meet the size and weight standards for a machinable parcel but are not individually boxed or packaged to withstand processing on BMC parcel sorters under C010 are also considered irregular parcels.
c. All pieces must be sorted to the finest extent possible under 2.0 through 4.0 or palletized under M045.
d. Each piece claimed at Library Mail rates must be marked ''Library Mail'' under M012. Each piece claimed at presorted Library Mail rates also must be marked ''Presorted'' or ''PRSRT'' under M012.

1.2 Documentation

A complete, signed postage statement, using the correct USPS form or an approved facsimile, must accompany each mailing. Documentation of postage is not required if the correct rate is affixed to each piece or if each piece is of identical weight, and the pieces are separated by rate level at the time of mailing.

[Revise the title and text of 2.0 to read as follows:]

2.0 PREPARATION—FLATS

2.1 Required Packaging

A package must be prepared when the quantity of addressed pieces for a required presort level reaches a minimum of 10 pieces. Smaller volumes are not permitted. The maximum weight of each physical package is 20 pounds, except that 5-digit packages, placed in 5-digit sacks may weigh a maximum of 40 pounds. Each physical package must contain at least two addressed pieces.

2.2 Package Preparation

Packages must be prepared and labeled in the following sequence:
a. 5-digit: optional; red Label D or optional endorsement line (OEL).
b. 3-digit: required; green Label 3 or OEL.
c. ADC: required; pink Label A or OEL.
d. Mixed ADC: required (no minimum); tan Label MXD or OEL.

2.3 Required Sacking

A sack must be prepared when the quantity of mail for a required presort destination reaches the minimums specified in 2.4. Smaller volumes are not permitted.

2.4 Sack Preparation and Labeling

Sacks must be prepared and labeled in the following sequence:
a. 5-digit: optional, except required for 5-digit rate (10 piece minimum).
(1) Line 1, use 5-digit ZIP Code on packages, preceded for military mail by correct prefix in M031.
(2) Line 2: ''PSVC FLTS 5D NON BC.''
b. 3-digit: required; (20 piece minimum).
(1) Line 1: use L002, Column A.
(2) Line 2: ''PSVC FLTS 3D NON BC.''
c. ADC: required; (20 piece minimum).
(1) Line 1: use L004, Column B.
(2) Line 2: ''PSVC FLTS ADC NON BC.''
d. Mixed ADC: required; (no minimum).
(1) Line 1: use ''MXD'' followed by city/state/ZIP Code of ADC serving 3-digit ZIP Code prefix of entry post office, as shown in L004, Column B.
(2) Line 2: ''PSVC FLTS NON BC WKG.''

[Add new 3.0 to read as follows:]

3.0 PREPARATION—IRREGULAR PARCELS

3.1 Required Packaging

A package must be prepared when the quantity of addressed pieces for a required presort level reaches a minimum of 10 pieces, except that packaging is not required for pieces placed in 5-digit scheme sacks and 5-digit sacks when such pieces are enclosed in an envelope, full-length sleeve, full-length wrapper, or polybag and the minimum package volume is met. The maximum weight of each physical package is 20 pounds, except that 5-digit packages placed in 5-digit sacks may weigh a maximum of 40 pounds. Each physical package must contain at least two addressed pieces. Packaging is also subject to these conditions:
a. Identical-weight pieces that weigh 1 pound or less must be prepared using the 10-piece minimum; those that weigh more than 1 pound must be prepared using the 10-pound minimum.
b. For nonidentical-weight pieces, mailers must use either the minimum that applies to the average piece weight for the entire mailing (divide the net weight of the mailing by the number of pieces; the resulting average single-piece weight determines whether the 10-piece or 10-pound minimum applies) or package by the actual piece count or mail weight for each sack, if documentation can be provided with the mailing that shows (specifically for each sack) the number of pieces and their total weight.
c. Mailers must note on the accompanying postage statement whether they applied the piece count, weight, or both.

3.2 Package Preparation

Packages must be prepared and labeled in the following sequence:
a. 5-digit: required; red Label D or optional endorsement line (OEL).
b. 3-digit: required; green Label 3 or OEL.
c. ADC: required; pink Label A or OEL.
d. Mixed ADC: required (no minimum); tan Label MXD or OEL.

3.3 Required Sacking

A sack must be prepared when the quantity of mail for a required presort destination reaches either 10 addressed pieces or 20 pounds, whichever occurs first. Smaller volumes are not permitted (except in mixed ADC sacks). Optional 5-digit scheme sacks may be prepared only when there are at least 10 addressed pieces or 20 pounds, whichever occurs first. Smaller volumes are not permitted. Sacking is also subject to these conditions:
a. Identical-weight pieces weighing 2 pounds or less must be sacked using the 10-piece minimum; those that weigh more must be sacked using the 20-pound minimum.
b. For nonidentical-weight pieces, mailers must use the minimum that applies to the average piece weight for the entire mailing (divide the net weight of the mailing by the number of pieces; the resulting average single-piece weight determines whether the 10 piece or 20 pound minimum applies). Alternatively, mailers may sack by the actual piece

count or mail weight for each package destination, if documentation can be provided with the mailing that shows (specifically for each sack) the number of pieces and their total weight.

c. Mailers must note on the accompanying postage statement whether they applied the piece count, weight, or both.

3.4 Sack Preparation and Labeling

Sacks must be prepared and labeled in the following sequence:

a. 5-digit scheme: optional.

(1) Line 1: use L606, Column B.

(2) Line 2: ''PSVC IRREG 5D SCHEME'' or ''PSVC IRREG 5D SCH.''

b. 5-digit: required.

(1) Line 1: use 5-digit ZIP Code on packages, preceded for military mail by correct prefix in M031).

(2) Line 2: ''PSVC IRREG 5D.''

c. 3-digit: required.

(1) Line 1: use L002, Column A.

(2) Line 2: ''PSVC IRREG 3D.''

d. ADC: required.

(1) Line 1: use L004, Column B.

(2) Line 2: ''PSVC IRREG ADC.''

e. Mixed ADC: required; (no minimum).

(1) Line 1: use ''MXD'' followed by city/state/ZIP Code of ADC serving 3-digit ZIP Code prefix of entry post office, as shown in L004, Column B.

(2) Line 2: ''PSVC IRREG WKG.''

[Add new 4.0 to read as follows:]

4.0 PREPARATION—MACHINABLE PARCELS

4.1 Required Sacking

A sack must be prepared when the quantity of mail for a required presort destination reaches 7 addressed pieces or 20 pounds whichever occurs first for optional 5-digit scheme or 5-digit sacks, or 10 pieces or 20 pounds whichever occurs first for BMC sacks. Smaller volumes are not permitted. Sacking is also subject to these conditions:

a. Identical-weight pieces that weigh 2 pounds or less must be sacked using the 10-piece minimum; those that weigh more must be sacked using the 20-pound minimum.

b. For nonidentical-weight pieces, mailers must use either the minimum that applies to the average piece weight for the entire mailing (divide the net weight of the mailing by the number of pieces; the resulting average single-piece weight determines whether the 10-piece or 20-pound minimum applies) or sack by the actual piece count or mail weight for each package destination, provided that documentation can be provided with the mailing that shows (specifically for each sack) the number of pieces and their total weight.

c. Mailers must note on the accompanying postage statement whether they applied the piece count, weight, or both.

4.2 Sack Preparation and Labeling

Sacks must be prepared and labeled in the following sequence:

a. 5-digit scheme: optional.

(1) Line 1: use L606, Column B.

(2) Line 2: ''PSVC MACH 5D SCHEME'' or ''PSVC MACH 5D SCH.''

b. 5-digit: required.

(1) Line 1: use 5-digit ZIP Code on parcels, preceded for military mail by correct prefix in M031.

(2) Line 2: ''PSVC MACH 5D.''

c. BMC: required.

(1) Line 1: use L601, Column B.

(2) Line 2: ''PSVC MACH BMC.''

d. Mixed BMC: required; (no minimum).

(1) Line 1: ''MXD'' followed by information in L601, Column B, for BMC serving 3-digit ZIP Code of entry post office.

(2) Line 2: ''PSVC MACH WKG.''

M800 All Automation Mail

M810 Letter-Size Mail

1.0 BASIC STANDARDS

* * * * *

1.2 Mailings

The requirements for mailings are as follows:

* * * * *

[Amend 1.2b and 1.2d to replace the automation basic rate with the new AADC and mixed AADC rates to read as follows:]

b. First-Class. A single automation rate First-Class mailing may include pieces prepared at carrier route, 5-digit, 3-digit, AADC, and mixed AADC rates.

* * * * *

d. Standard Mail. Automation carrier route pieces must be prepared as a separate mailing (and meet a separate minimum volume requirement) from pieces prepared at 5-digit, 3-digit, AADC, and mixed AADC rates.

1.3 Documentation

[Amend 1.3 to remove references to the basic rate to read as follows:]

A complete, signed postage statement, using the correct USPS form or an approved facsimile, must accompany each mailing. Each mailing also must be accompanied by presort and rate documentation produced by PAVE-certified (or, except for Periodicals, MAC-certified) software or by standardized documentation under P012. Exception: For mailings of fewer than 10,000 pieces, presort and rate documentation is not required if postage at the correct rate is affixed to each piece or if each piece is of identical weight and the pieces are separated by rate level when presented for acceptance. Mailers may use a single postage statement and a single documentation report for all rate levels in a single mailing. Standard Mail mailers may use a single postage statement and a single documentation report (with a separate summary for carrier route and a separate summary for all other rate levels) for both an automation carrier route mailing and a mailing containing pieces prepared at other automation rates when both mailings are submitted for entry at the same time. Combined mailings of more than one Periodicals publication also must be documented under M230. First-Class Mail and Standard Mail mailings prepared under the value added refund procedures or as combined mailings must meet additional standardized documentation requirements under P014 and P960.

* * * * *

2.0 FIRST-CLASS MAIL AND STANDARD MAIL

* * * * *

2.3 Tray Line 2

[Amend the text of 2.3, 2.3b, and 2.3c, to change ''LTRS'' to ''LTR,'' ''CAR-RT'' to ''CR-RT,'' and to add 5-D'' to the 5-digit carrier routes tray, to read as follows:]

Line 2: ''FCM LTR'' or ''STD LTR'' and:

* * * * *

b. 5-digit carrier routes: ''5D CR–RT BC.''

c. 3-digit carrier routes: ''3D CR–RT BC.''

* * * * *

M820 Flat-Size Mail

[Amend the Summary to include Bound Printed Matter to read as follows:]

Summary

M820 describes the preparation standards for flat-size automation rate First-Class Mail, Periodicals, Standard Mail, and Bound Printed Matter.

1.0 BASIC STANDARDS

1.1 Standards

[Amend the first sentence of 1.1 by adding Bound Printed Matter to read as follows:]

Flat-size automation rate First-Class Mail, Periodicals, Standard Mail, and Bound Printed Matter must be prepared under M820 and the eligibility standards for the rate claimed. * * *

1.2 Mailings

[Amend 1.2 to replace the First-Class Mail automation basic rate with the new ADC and mixed ADC rates to read as follows:]

All pieces in a mailing must meet the standards in C820 and must be sorted together to the finest extent required. First-Class Mail mailings may include pieces prepared at automation 5-digit, 3-digit, ADC, and mixed ADC rates. Periodicals mailings may include pieces prepared at automation 5-digit, 3-digit, and basic rates. Standard Mail mailings may include pieces prepared at automation 3/5 and basic rates. The definition of a mailing and permissible combinations are in M011. Bound Printed Matter mailings may include presorted pieces claiming the barcoded discount.

* * * * *

1.4 Marking

[Amend the last sentence of 1.4 by adding the reference P700 to read as follows:]

* * * Pieces not claimed at an automation rate must not bear ''AUTO'' unless single-piece rate postage is affixed or a corrective single-piece rate marking is applied under P100, P600, or P700.

* * * * *

[Add new 6.0 for Bound Printed Matter to read as follows:]

6.0 BOUND PRINTED MATTER

6.1 Package Preparation

Packages must be prepared and labeled in the following sequence:

a. 5-digit: (minimum 10-pieces or 10 pounds, fewer not permitted, maximum weight 20 pounds); red Label D or optional endorsement line (OEL).

b. 3-digit: (minimum 10 pieces or 10 pounds, fewer not permitted, maximum weight 20 pounds); green Label 3 or OEL.

c. ADC: (minimum 10 pieces or 10 pounds, fewer not permitted, maximum weight 20 pounds); pink Label A or OEL.

d. Mixed ADC: (no minimum, maximum weight 20 pounds); tan Label MXD or OEL.

6.2 Sack Preparation and Labeling

A sack must be prepared when the quantity of mail for a required presort destination reaches 20 addressed pieces. Preparation sequence and sack labeling:

a. 5-digit: required.

(1) Line 1: use 5-digit ZIP Code on packages.

(2) Line 2: ''PSVC FLTS 5D BC.''

b. 3-digit: required.

(1) Line 1: use L002, Column A.

(2) Line 2: ''PSVC FLTS 3D BC.''

c. SCF: optional.

(1) Line 1: use L005, Column B.

(2) Line 2: ''PSVC FLTS SCF BC.''

d. ADC: required.

(1) Line 1: use L004.

(2) Line 2: ''PSVC FLTS ADC BC.''

e. Mixed ADC: required.

(1) Line 1: use ''MXD'' followed by origin facility in L802 or L803, as appropriate.

(2) Line 2: ''PSVC FLTS BC WKG.''

* * * * *

P Postage and Payment Methods

P000 Basic Information

P010 General Standards

P011 Payment 1.0

Prepayment and Postage Due

* * * * *

[Amend title and text of 1.8 to read as follows:]

1.8 Shortpaid Nonmachinable Mail

Shortpaid nonmachinable First-Class Mail is returned to the sender for additional postage.

* * * * *

P012 Documentation

* * * * *

2.0 STANDARDIZED DOCUMENTATION—FIRST-CLASS MAIL, PERIODICALS, AND STANDARD MAIL

* * * * *

2.3 Rate Level Column Headings

The actual name of the rate level (or corresponding abbreviation) is used for column headings required by 2.2 and shown below:

[Amend 2.3a to add the AADC and mixed AADC rates for automation letters and the ADC and mixed ADC rates automation for flats (the entries are added after the 3/5 rate and before the basic rate) to read as follows:]

a. Automation First-Class Mail, Periodicals, and Standard Mail:

Rate	Abbreviation
* * * * *	
AADC [First-Class Mail letters/cards and Standard Mail letters].	AB
ADC [First-Class Mail flats]	AB
Mixed AADC [First-Class Mail letters/cards and StandardMail letters].	MB
Mixed ADC [First-Class Mail flats]	MB
[Amend the entry for basic as follows:] Basic [flats].	BB
* * * * *	

* * * * *

3.0 DETAILED ZONE LISTING FOR PERIODICALS

3.1 Definition and Retention

[Amend the first sentence of 3.1 by making minor edits and adding DADC rates to read as follows:]

The publisher must be able to present documentation to support the actual number of copies of each edition of an issue, by entry point, mailed to each zone, at DDU, DSCF, DADC, and In-County rates. * * *

3.2 Characteristics

Report the number of copies mailed to each 3-digit ZIP Code prefix at applicable zone rates using one of the following formats:

* * * * *

[Amend the first sentence of 3.2b by making minor edits and adding DADC to read as follows:]

b. Report copies by zone (In-County DDU, In-County others, Outside-County DDU, Outside-County DSCF, and Outside-County DADC) and by 3-digit ZIP Code prefix, listed in ascending numeric order, for each zone. * * *

3.3 Zone Abbreviations

Use the actual rate name or the authorized zone abbreviation in the listings in 2.0 and 3.2:

[Amend the table in 3.3 to include the zone abbreviation, ''ADC'' and rate equivalent, ''outside-county, DADC'' to read as follows:]

Zone abbreviation	Rate equivalent
* * * * *	
SCF	Outside-county, DSCF
ADC	Outside-county, DADC
1–2 or 1/2	Zones 1 and 2
* * * * *	

* * * * *

P013 Rate Application and Computation

* * * * *

2.0 RATE APPLICATION—EXPRESS MAIL, FIRST-CLASS MAIL, AND PRIORITY MAIL

* * * * *

2.4 Priority Mail

[Amend 2.4 by replacing ''5 pounds'' with ''1 pound'' to read as follows:]

Except under 2.5, Priority Mail rates are charged per pound or fraction thereof; any fraction of a pound is considered a whole pound. For example, if a piece weighs 1.2 pounds, the weight (postage) increment is 2 pounds. The minimum postage amount per addressed piece is the 1-pound rate. The Priority Mail rate up to 1 pound is based solely on weight; for pieces weighing more than 1 pound, the rates are based on weight and zone.

2.5 Flat-Rate Envelope

[Amend 2.5 by changing ''2-pound'' to ''1-pound'' to read as follows:]

Each addressed Express Mail flat-rate envelope is charged the Express Mail rate applicable to a ½-pound piece regardless of its actual weight. Each addressed Priority Mail flat-rate envelope is charged the Priority Mail rate applicable to a 1-pound piece regardless of its actual weight.

2.6 Keys and Identification Devices

[Amend 2.6 by adding ''zone rate'' to the 2-pound weight to read as follows:]

Keys and identification devices weighing 13 ounces or less are charged First-Class Mail rates per ounce or fraction thereof in accordance with 2.3, plus the fee in R100.10.0. Keys and identification devices weighing more than 13 ounces but not more than 1 pound are mailed at the 1-pound Priority Mail flat rate plus the fee in R100.10.0. Keys and identification devices weighing more than 1 pound but not more than 2 pounds are subject to the 2-pound zoned rate plus the fee in R100.10.0. When the ZIP Code of mailing cannot be determined from the return address or cancellation mark for pieces subject to the Priority Mail rates, the zone 4 rate is charged for the weight of the piece.

* * * * *

5.0 RATE APPLICATION—PACKAGE SERVICES

* * * * *

5.2 Parcel Post

[Amend 5.2 by changing ''2 pounds'' to ''1 pound'' in the last sentence to read as follows:]

* * * The minimum postage rate per addressed piece is that for an addressed piece weighing 1 pound.

5.3 Single-Piece Bound Printed Matter

[Amend 5.3 by changing ''1.5 pounds'' to ''1 pound'' in the last sentence to read as follows:]

* * * The minimum postage rate per addressed piece is that for an addressed piece weighing 1 pound.

* * * * *

8.0 COMPUTING POSTAGE—STANDARD MAIL

* * * * *

[Add new 8.5 citing how to calculate the discount for heavy automation letters to read as follows:]

8.5 Discount for Heavy Automation Letters

Automation letters that weigh more than 3.3 ounces but not more than 3.5 ounces are charged postage equal to the automation piece/pound rate for that piece and receive a discount equal to the corresponding automation nonletter piece rate (3.3 ounces or less) minus the corresponding letter automation letter piece rate (3.3 ounces or less). For automation ECR pieces, postage is calculated using the regular basic piece/pound rate and the regular basic nonletter piece rate. If claiming a destination entry rate, the discount is circulated using the corresponding rates.

[Add new 8.6 citing how to calculate the discount for heavy automation-compatible letters to read as follows:]

8.6 Discount for Heavy ECR Letters

Pieces that otherwise qualify for the high density or saturation letter rate and weigh more than 3.3 ounces but not more than 3.5 ounces pay postage equal to the nonletter piece/pound rate and receive a discount equal to the corresponding nonletter piece rate (3.3 ounces or less) minus the corresponding letter piece rate (3.3 ounces or less). If claiming a destination entry rate, the discount is calculated using the corresponding rates.

* * * * *

P014 Refunds and Exchanges

* * * * *

5.0 EXPRESS MAIL POSTAGE REFUND

* * * * *

5.2 Conditions for Refund

[Revise 5.2 to read as follows:]

A refund request must be made within 90 days after the date of mailing as shown in the ''Date In'' box on Label 11. Except as provided in D500.1.6, a mailer may file for a postage refund only under one of the following circumstances.

a. The item was not delivered or made available for claim as guaranteed under the applicable service purchased.

b. The item was not delivered or made available for claim by the guaranteed delivery time applicable to the service purchased, and delivery was not attempted by the guaranteed delivery time applicable to the service purchased.

5.3 Refunds Not Given

[Amend 5.3 to read as follows:]

A refund claim will not be given if the guaranteed service was not provided due to any of the circumstances in D500.1.6.

* * * * *

P020 Postage Stamps and Stationery

P021 Stamped Stationery

* * * * *

3.0 OTHER STATIONERY

[Amend the title of 3.1 to by adding ''s'' to ''Card'' to read as follows:]

3.1 Stamped Cards

[Amend 3.1 by adding availability of stamped cards to read as follows:]Stamped cards are available as single stamped cards, double (reply) stamped cards, and in sheets of 40 for customer imprinting. Single and double stamped cards are 3½ inches high by 5½ inches long. Sheets must be cut to this size so that the stamp is in the upper right corner of each card. The USPS does not offer personalized stamped cards (cards imprinted with a return address).

* * * * *

P100 First-Class Mail

* * * * *

4.0 PRESORTED RATE

* * * * *

4.2 Affixed Postage

Unless permitted by other standards or by Business Mailer Support (BMS), USPS headquarters, when precanceled postage or meter stamps are used, only one payment method may be used in a mailing and each piece must bear postage under one of these conditions:

* * * * *

[Amend 4.2b to change the ''nonstandard'' surcharge to the ''nonmachinable'' surcharge to read as follows:]

b. A precanceled stamp or the full postage at the lowest First-Class first ounce rate applicable to the mailing job, and full postage on metered pieces for any additional ounce(s) or nonmachinable surcharge; postage documentation may be required by standard.

* * * * *

5.0 AUTOMATION RATES

* * * * *

5.2 Postage Affixed, Generally

Unless permitted by other standards or by Business Mailer Support (BMS), USPS headquarters, when precanceled postage or meter stamps are used, only one payment method may be used in a mailing and each piece must bear postage under one of these conditions:

[Amend 5.2b to change the ''nonstandard'' surcharge to the ''nonmachinable'' surcharge to read as follows:]

* * * * *

b. Flat-size pieces must bear enough postage to include the nonmachinable surcharge if applicable.

* * * * *

P200 Periodicals

1.0 BASIC INFORMATION

* * * * *

1.5 Postage Statement and Documentation

[Amend the second sentence of 1.5 by adding ''DADC'' to read as follows:]

* * * The postage statement must be supported by documentation as required by P012 and the rate claimed unless each piece in the mailing is of identical weight and the pieces are separated when presented for acceptance by rate, by zone (including separation by In-County and Outside-County rates), and by entry discount (i.e., DDU, DSCF, and DADC). * * *

* * * * *

[Redesignate 1.8 through 1.12 as 1.9 through 1.13, respectively. Add new 1.8 to read as follows:]

1.8 Waiving Nonadvertising Rates

Instead of marking a copy of each issue to show the advertising and nonadvertising portions, the publisher may pay postage at the advertising zoned rates on both portions of all issues or editions of a Periodicals publication (except a requester publication). This option does not apply if the rate for advertising is lower than the rate for nonadvertising. When the amount of advertising exceeds 75%, the copies provided to the postmaster must be marked ''Advertising over 75%.'' When the amount of advertising is under 75%, the copies provided to the postmaster must be marked ''Advertising not over 75%'' on the first page. The entire weight of the copy must be entered on the postage statement in the column provided for the advertising portion. The words ''Over 75%'' or ''Not over 75%'' (as applicable) must be entered on the postage statement. The word ''Waived'' must be written in the space provided for the weight of the nonadvertising portion on the postage statement.

* * * * *

2.0 MONTHLY POSTAGE STATEMENT

* * * * *

[Remove 2.4 and redesignate 2.5 as 2.4.]

* * * * *

P600 Standard Mail

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2.0 PRESORTED AND ENHANCED CARRIER ROUTE RATES

2.1 Identical-Weight Pieces

[Amend 2.1 to include a reference to surcharges to read as follows:]

Mailings of identical-weight pieces may have postage affixed to each piece at the exact rate for which the piece qualifies, or each piece in the mailing may have postage affixed at the lowest rate applicable to pieces in the mailing or mailing job. Alternatively, a nondenominated precanceled stamp may be affixed to every piece in the mailing or mailing job, or each piece may bear a permit imprint. If exact postage is not affixed, all additional postage and surcharges must be paid at the time of mailing with an advance deposit account or with a meter strip affixed to the required postage statement. If exact postage is not affixed, documentation meeting the standards in P012 must be submitted to substantiate the additional postage unless the pieces are identical weight and separated by rate level at the time of mailing.

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P900 Special Postage Payment Systems

P910 Manifest Mailing System (MMS)

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3.0 KEYLINE

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Exhibit 3.3a Rate Category Abbreviations—First-Class Mail

[Amend Exhibit 3.3a by removing the entry for automation basic; adding entries for the new AADC, ADC, mixed AADC, and mixed ADC rates to read as follows:]

Code	Rate category
AA	Automation AADC.
AD	Automation ADC.
AM	Automation Mixed AADC.
AZ	Automation Mixed ADC.

Exhibit 3.3b Rate Category Abbreviations—Standard Mail

[Amend Exhibit 3.3b by adding entries for the new AADC and mixed AADC rates to read as follows:]

Code	Rate category
AA	Automation AADC.
AM	Automation Mixed AADC.

* * * * *

P960 First-Class or Standard Mail Mailings With Different Payment Methods

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3.0 PRODUCING THE COMBINED MAILING

3.1 Mailer Quality Control

Before merging different pieces into a combined presorted mailing, the mailer must have quality control procedures to ensure that:

* * * * *

[Amend 3.1i to clarify which markings must appear on mailpieces to read as follows:]

When markings are applied by an MLOCR, they properly show the applicable Identifier/Rate Code described in 3.2 that specifies the Product Month Designator, MASS/FASTforward system identifier, the method of postage payment, and the rate of postage affixed for metered and precanceled stamp mail or other postage information for permit imprint mail. These markings must be linked by the computer system to the rate entered by the mailer when the pieces are run through the MLOCR.

[Amend the title and contents of 3.2 to show how markings are applied to pieces in a combined mailing and to add new codes for First-Class Mail and Standard Mail to read as follows:]

3.2 Rate and Postage Marking

The following markings must be applied to each piece in the mailing when markings are applied by an MLOCR. These seven character markings provide the automation rate marking information and additional information including the Product Month Designator, MASS/FASTforward (FF) System Identifier, Manufacturer Code, and Rate Marking information. The Product Month Designator is the first character position and represents the product month of the ZIP+4 file installed with the system's lookup engine responsible for the ZIP+4 assignment. Each product month is designated by a character ''A'' through ''L'' (with ''A'' meaning January, ''B''

meaning February, etc.). The MASS/FF System Identifier is characters 2 through 4 and represents the certified system identifier responsible for the ZIP+4 assignment. There is a one-to-one relationship between the certified system serial number and the assigned identifier. The Manufacturer Code is the fifth character and is assigned at the manufacturer's discretion with one exception; the character ''Z'' is assigned when the mailpiece contains a delivery point barcode in the address block and the MLOCR does not perform a lookup but simply reproduces the address block barcode. The Rate Marking is represented in the last two characters according to the chart below. The applicable marking must appear on each mailpiece in one of the locations authorized under M012.

a. First-Class Mail.

Rate marking		Rate and postage category
Letters	Flats	
P1	F1	Barcoded 1-ounce Permit Imprint.
P2	F2	Barcoded 2-ounce Permit Imprint.
P3	F3	Barcoded 3-ounce Permit Imprint.
P4	F4	Barcoded 4-ounce Permit Imprint.
	F5	Barcoded 5-ounce Permit Imprint.
	F6	Barcoded 6-ounce Permit Imprint.
	F7	Barcoded 7-ounce Permit Imprint.
	F8	Barcoded 8-ounce Permit Imprint.
	F9	Barcoded 9-ounce Permit Imprint.
	F10	Barcoded 10-ounce Permit Imprint.
	F11	Barcoded 11-ounce Permit Imprint.
	F12	Barcoded 12-ounce Permit Imprint.
	F13	Barcoded 13-ounce Permit Imprint.
M5	MF	Barcoded 5–Digit Meter Postage Affixed.
M3	MT	Barcoded 3–Digit Meter Postage Affixed.
MA	MD	Barcoded AADC Meter Postage Affixed.
MM	MX	Barcoded Mixed AADC Meter Postage Affixed.
MP	MP	Presorted Meter Postage Affixed.
S1	.....	Precanceled $0.15 Stamp Affixed (card).
S1	.....	Precanceled $0.23 Stamp Affixed.
S2	.....	Precanceled $0.25 Stamp Affixed.

b. Standard Mail (letters only).

Rate marking	Rate and postage category
PI	Barcoded Regular Permit Imprint.
NI	Barcoded Nonprofit Permit Imprint.
M5	Barcoded 5–Digit Meter Regular Postage Affixed.
N5	Barcoded 5–Digit Meter Nonprofit Postage Affixed.
M3	Barcoded 3–Digit Meter Regular Postage Affixed.
N3	Barcoded 3–Digit Meter Nonprofit Postage Affixed.
MA	Barcoded AADC Meter Regular Postage Affixed.
NA	Barcoded AADC Meter Nonprofit Postage Affixed.
MM	Barcoded Mixed AADC Meter Regular Postage Affixed.
NM	Barcoded Mixed AADC Meter Nonprofit Postage Affixed.
M8	Presorted 3/5 Meter Regular Postage Affixed.
N8	Presorted 3/5 Meter Nonprofit Postage Affixed.
M9	Presorted Basic Meter Regular Postage Affixed.
N9	Presorted Basic Meter Nonprofit Postage Affixed.
SR	Precanceled Regular Rate Stamp Affixed.
SN	Precanceled Nonprofit Stamp Affixed.

* * * * *

R Rates and Fees

The proposed rates and fees are printed at the end of this notice.

* * * * *

S Special Services

S000 Miscellaneous Services

S010 Indemnity Claims

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2.0 GENERAL FILING INSTRUCTIONS

* * * * *

2.12 Payable Express Mail Claims

[Amend 2.12a and 2.12a(4) by replacing $500 with $100. No other changes to text.]

* * * * *

S020 Money Orders and Other Services

1.0 ISSUING MONEY ORDERS

* * * * *

1.2 Purchase Restrictions

A postal customer may buy multiple money orders at the same time, in the same or differing amounts, subject to these restrictions:

[Amend item 1.2a by increasing the maximum amount of a single money order from $700 to $1,000 to read as follows:]

a. The maximum amount of any single money order is $1,000.

* * * * *

S500 Special Services for Express Mail

1.0 AVAILABLE SERVICES

* * * * *

1.5 Insurance and Indemnity

Express Mail is insured against loss, damage, or rifling, subject to these standards:

* * * * *

[Amend 1.5c by changing ''$500'' to ''$100'' to read as follows:]

c. Merchandise insurance coverage is provided against loss, damage, or rifling and is limited to a maximum liability of $100. (Additional insurance under 1.6 may be purchased up to a maximum coverage of $5,000 for merchandise valued at more than $100.) Nonnegotiable documents are insured against loss, damage, or rifling, up to $100 per piece, subject to the maximum limit per occurrence as defined in S010.

* * * * *

1.6 Additional Insurance

[Amend the first sentence of 1.6 by replacing ''$500'' with ''$100'' to read as follows:]

Additional insurance, up to a maximum coverage of $5,000, may be purchased for merchandise valued at more than $100 sent by Express Mail.

* * *

* * * * *

S900 Special Postal Services

S910 Security and Accountability

S911 Registered Mail

1.0 BASIC INFORMATION

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[Redesignate 1.5 as 1.6. Add new 1.5 to read as follows:]

1.5 Service Option

Mailers can access delivery information on the Internet at www.usps.com by providing the article number of the registered mailpiece.

* * * * *

S912 Certified Mail

1.0 BASIC INFORMATION

* * * * *

[Redesignate 1.3 through 1.7 as 1.4 through 1.8, respectively, and add new 1.3 to read as follows:]

1.3 Service Option

Mailers can access delivery information on the Internet at

www.usps.com by providing the article number of the certified mailpiece.

* * * * *

S915 Return Receipt

1.0 BASIC INFORMATION

* * * * *

[Redesignate 1.3 through 1.7 as 1.4 through 1.8, respectively, and add new 1.3 to read as follows:]

1.3 Service Option

Electronic return receipts are available to mailers who provide an e-mail address at the point of purchase, or preregister on the Internet at www.usps.com. The delivery date, time, ZIP Code, and a digitized image of the recipient's signature are sent automatically to the sender by secure e-mail after delivery of the mail (available Fall 2002).

* * * * *

2.0 OBTAINING SERVICE

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2.2 After Mailing

[Amend the first paragraph of 2.2 to read as follows:]

The mailer may request a delivery record after mailing for Express Mail, certified mail, registered mail, COD mail, and mail insured for more than $50. When a delivery record is available, the USPS provides the mailer information from that record, including to whom the mail was delivered, the signature, and the date of delivery. The mailer requests a delivery record by completing Form 3811–A, paying the appropriate fee in R900, and submitting the request to the appropriate office as follows: * * *

* * * * *

[Delete 2.2b, redesignate item 2.2c as 2.2b, and revise to read as follows:]

b. For all other items, send the form to any post office.

[Redesignate 2.3 as 2.4 and add new 2.3 to read as follows:]

2.3 Internet Purchase of Return Receipt After Mailing

Return receipts after mailing will be available for purchase over the Internet at www.usps.com using a credit card. The mailer initiates the request and fills out the necessary information on the Internet. Once the request is made, delivery and signature information is sent to the mailer via fax or mail (available Fall 2002).

* * * * *

S918 Delivery Confirmation

1.0 BASIC INFORMATION

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1.2 Eligible Matter

[Amend 1.2 by adding First-Class Mail parcels and limiting Package Services to parcels to read as follows:]

Delivery Confirmation service is available for First-Class Mail parcels, Priority Mail items, Standard Mail pieces subject to the residual shape surcharge (electronic option only), and Package Services parcels (electronic option only). For the purposes of adding Delivery Confirmation service, a First-Class Mail or Package Services parcel must meet the definition in C100.5.0 or C700.1.0, as appropriate.

* * * * *

S919 Signature Confirmation

1.0 BASIC INFORMATION

* * * * *

1.2 Eligible Matter

[Amend 1.2 by adding First-Class Mail parcels and limiting Package Services to parcels to read as follows:]

Signature Confirmation is available for First-Class Mail parcels, Priority Mail items, and Package Services parcels. For the purposes of adding Signature Confirmation service, a First-Class Mail or Package Services parcel must meet the definition in C100.5.0 or C700.1.0, as appropriate.

* * * * *

The proposed rate and fees that would be printed as the R Module follow:

BILLING CODE 7710–12–P

R000 Stamps and Stationery

1.0 PLAIN STAMPED ENVELOPES (P021)

Fee, in addition to the postage value preprinted on the envelope:

Type	Fee	
	Each	500
Basic,[1] size 6-3/4	$0.08	$12.00
Basic,[1] size 10	0.08	14.00

1. Includes regular, window, precanceled regular, and precanceled window envelopes.

2.0 PERSONALIZED STAMPED ENVELOPES (P021)

Fee, in addition to the postage value preprinted on the envelope:

Type	Fee	
	50	500
Basic,[1] size 6-3/4	$3.50	$17.00
Basic,[1] size 10	3.50	20.00

1. Includes regular, window, precanceled regular, and precanceled window envelopes.

3.0 STAMPED CARDS (P021)

Fee, in addition to the postage value preprinted on the card:

Type	Fee
Single card	$0.02
Double card	0.04
Sheet of 40 cards (uncut)	0.80

4.0 POSTAGE STAMPS

Postage stamps are available in the following denominations:

Form Per Purpose	Denomination
Regular Postage	
Panes of up to 100	to be determined
Booklets	to be determined
Coils of 100	to be determined
Coils of 3,000	to be determined
Coils of 10,000	to be determined
Precanceled Presorted Rate Postage — First-Class Mail and Standard Mail	
Coils of 500, 3,000, and 10,000	Various nondenominated (available only to permit holders)
Commemorative	
Panes of up to 50	to be determined
20-Stamp Booklets	to be determined
Breast Cancer Research	
Panes of up to 20	Purchase price of $0.40; postage value equivalent to First-Class Mail nonautomation single-piece rate ($0.37); remainder is contribution to fund breast cancer research.

R100 First-Class Mail

1.0 NONAUTOMATION—SINGLE PIECE

Cards 1.1

Cards meeting the standards in C100: $0.23 each.

Letters, Flats, and Parcels 1.2

Letters, flats, and parcels; nonmachinable surcharge in 11.0 might apply:

Weight Increment	Rate
First ounce or fraction of an ounce	$0.37
Each additional ounce or fraction	0.23

2.0 NONAUTOMATION—PRESORTED

Cards 2.1

Cards meeting the standards in C100: $0.212 each.

Letters, Flats, and Parcels 2.2

Letters, flats, and parcels; nonmachinable surcharge in 11.0 might apply:

Weight Increment	Rate
First ounce or fraction of an ounce	
(For pieces weighing 2 ounces or less)	$0.352
(For pieces weighing more than 2 ounces)	0.311
Each additional ounce or fraction	0.225

3.0 AUTOMATION—QUALIFIED BUSINESS REPLY MAIL

Cards 3.1

Cards meeting the standards in E150 and S922, in addition to the fees in R900: $0.200 each.

Letters 3.2

Letter-size single pieces meeting the standards in E150 and S922:

Weight Increment	Rate[1]
First ounce or fraction of an ounce	$0.340
Second ounce or fraction	0.230

1. QBRM is also subject to fees in R900.

4.0 AUTOMATION—MIXED AADC & MIXED ADC

Cards 4.1 Cards meeting the standards in C100: $0.194 each.

Letters 4.2 Letter-size pieces:

Weight Increment	Rate
First ounce or fraction of an ounce	
(For pieces weighing 2 ounces or less)	$0.309
(For pieces weighing more than 2 ounces)	0.268
Each additional ounce or fraction	0.225

Flats 4.3 Flat-size pieces; nonmachinable surcharge in 11.0 might apply:

Weight Increment	Rate
First ounce or fraction of an ounce	
(For pieces weighing 2 ounces or less)	$0.341
(For pieces weighing more than 2 ounces)	0.300
Each additional ounce or fraction	0.225

5.0 AUTOMATION—AADC & ADC

Cards 5.1 Cards meeting the standards in C100: $0.187 each.

Letters 5.2 Letter-size pieces:

Weight Increment	Rate
First ounce or fraction of an ounce	
(For pieces weighing 2 ounces or less)	$0.301
(For pieces weighing more than 2 ounces)	0.260
Each additional ounce or fraction	0.225

Flats 5.3 Flat-size pieces; nonmachinable surcharge in 11.0 might apply:

Weight Increment	Rate
First ounce or fraction of an ounce	
(For pieces weighing 2 ounces or less)	$0.333
(For pieces weighing more than 2 ounces)	0.292
Each additional ounce or fraction	0.225

6.0 AUTOMATION—3-DIGIT

Cards 6.1 Cards meeting the standards in C100: $0.183 each.

Letters 6.2 Letter-size pieces:

Weight Increment	Rate
First ounce or fraction of an ounce	
(For pieces weighing 2 ounces or less)	$0.292
(For pieces weighing more than 2 ounces)	0.251
Each additional ounce or fraction	0.225

Flats 6.3 Flat-size pieces; nonmachinable surcharge in 11.0 might apply:

Weight Increment	Rate
First ounce or fraction of an ounce	
(For pieces weighing 2 ounces or less)	$0.322
(For pieces weighing more than 2 ounces)	0.281
Each additional ounce or fraction	0.225

7.0 AUTOMATION—5-DIGIT

Cards 7.1 Cards meeting the standards in C100: $0.176 each.

Letters 7.2 Letter-size pieces:

Weight Increment	Rate
First ounce or fraction of an ounce	
(For pieces weighing 2 ounces or less)	$0.278
(For pieces weighing more than 2 ounces)	0.237
Each additional ounce or fraction	0.225

Flats 7.3 Flat-size pieces; nonmachinable surcharge in 11.0 might apply:

Weight Increment	Rate
First ounce or fraction of an ounce	
(For pieces weighing 2 ounces or less)	$0.302
(For pieces weighing more than 2 ounces)	0.261
Each additional ounce or fraction	0.225

8.0 AUTOMATION—CARRIER ROUTE

Cards 8.1 Cards meeting the standards in C100: $0.170 each.

Letters 8.2 Letter-size pieces:

Weight Increment	Rate
First ounce or fraction of an ounce	
(For pieces weighing 2 ounces or less)	$0.275
(For pieces weighing more than 2 ounces)	0.234
Each additional ounce or fraction	0.225

Summary—Single-Piece and Presorted
8.3

Weight Not Over (ounces)	Nonautomation[1] Single-Piece	Presorted
Letters, Flats, and Parcels		
1	$0.370	$0.352
2	0.600	0.577
3[2]	0.830	0.761
4	1.060	0.986
5	1.290	1.211
6	1.520	1.436
7	1.750	1.661
8	1.980	1.886
9	2.210	2.111
10	2.440	2.336
11	2.670	2.561
12	2.900	2.786
13	3.130	3.011
Cards[3]	0.230	0.212

1. Nonmachinable surcharge in 11.0 might apply to pieces that weigh 1 ounce or less: single-piece $0.12; presorted $0.055.
2. Presorted rates for pieces weighing over 2 ounces reflect a discount of $0.041 per piece.
3. Rates shown apply to each single or double postcard when originally mailed; reply half of double postcard must bear postage at applicable rate when returned unless prepared as business reply mail.

Summary—Automation
8.4

Weight Not Over (ounces)	Letters[1] Mixed AADC	AADC	3-Digit	5-Digit	Carrier Route	Flats[2] Mixed ADC	ADC	3-Digit	5-Digit
Letters, Flats, and Parcels									
1	$0.309	$0.301	$0.292	$0.278	$0.275	$0.341	$0.333	$0.322	$0.302
2	0.534	0.526	0.517	0.503	0.500	0.566	0.558	0.547	0.527
3[3]	0.718	0.710	0.701	0.687	0.684	0.750	0.742	0.731	0.711
4	0.943	0.935	0.926	0.912	0.909	0.975	0.967	0.956	0.936
5	—	—	—	—	—	1.200	1.192	1.181	1.161
6	—	—	—	—	—	1.425	1.417	1.406	1.386
7	—	—	—	—	—	1.650	1.642	1.631	1.611
8	—	—	—	—	—	1.875	1.867	1.856	1.836
9	—	—	—	—	—	2.100	2.092	2.081	2.061
10	—	—	—	—	—	2.325	2.317	2.306	2.286
11	—	—	—	—	—	2.550	2.542	2.531	2.511
12	—	—	—	—	—	2.775	2.767	2.756	2.736
13	—	—	—	—	—	3.000	2.992	2.981	2.961
Cards[4]	0.194	0.187	0.183	0.176	0.170	—	—	—	—

1. Weight cannot exceed 3.3 ounces
2. Nonmachinable surcharge in 11.0 might apply to pieces that weigh 1 ounce or less: $0.055 per piece.
3. Automation rates for pieces weighing over 2 ounces reflect a discount of $0.041 per piece.
4. Rates shown apply to each single or double postcard when originally mailed; reply half of double postcard must bear postage at applicable rate when returned unless prepared as business reply mail.

9.0 PRIORITY MAIL

Parcels that weigh less than 15 pounds but measure more than 84 inches in combined length and girth are charged the applicable rate for a 15-pound parcel.

The 1-pound rate is charged for matter sent in a Priority Mail flat-rate envelope provided by the USPS, regardless of the actual weight of the piece.

Weight Not Over (pounds)	Zones Local, 1, 2, & 3	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8
1	$3.85	$3.85	$3.85	$3.85	$3.85	$3.85
2	3.95	4.55	4.90	5.05	5.40	5.75
3	4.75	6.05	6.85	7.15	7.85	8.55
4	5.30	7.05	8.05	8.50	9.45	10.35
5	5.85	8.00	9.30	9.85	11.00	12.15
6	6.30	8.85	9.90	10.05	11.30	12.30
7	6.80	9.80	10.65	11.00	12.55	14.05
8	7.35	10.75	11.45	11.95	13.80	15.75
9	7.90	11.70	12.20	12.90	15.05	17.50
10	8.40	12.60	13.00	14.00	16.30	19.20
11	8.95	13.35	13.75	15.15	17.55	20.90
12	9.50	14.05	14.50	16.30	18.80	22.65
13	10.00	14.75	15.30	17.50	20.05	24.35
14	10.55	15.45	16.05	18.60	21.25	26.05
15	11.05	16.20	16.85	19.75	22.50	27.80
16	11.60	16.90	17.60	20.85	23.75	29.50
17	12.15	17.60	18.35	22.05	25.00	31.20
18	12.65	18.30	19.30	23.15	26.25	32.95
19	13.20	19.00	20.20	24.30	27.50	34.65
20	13.75	19.75	21.15	25.35	28.75	36.40
21	14.25	20.45	22.05	26.55	30.00	38.10
22	14.80	21.15	22.95	27.65	31.20	39.80
23	15.30	21.85	23.90	28.80	32.45	41.55
24	15.85	22.55	24.85	29.90	33.70	43.25
25	16.40	23.30	25.75	31.10	34.95	44.95
26	16.90	24.00	26.60	32.25	36.20	46.70
27	17.45	24.70	27.55	33.35	37.45	48.40
28	18.00	25.40	28.50	34.50	38.70	50.15
29	18.50	26.15	29.45	35.60	39.95	51.85
30	19.05	26.85	30.35	36.80	41.20	53.55
31	19.55	27.55	31.20	37.85	42.40	55.30
32	20.10	28.25	32.15	39.00	43.65	57.00
33	20.65	28.95	33.10	40.10	44.90	58.70
34	21.15	29.70	34.00	41.25	46.15	60.45
35	21.70	30.40	34.95	42.40	47.40	62.15

Weight Not Over (pounds)	Zones Local, 1, 2, & 3	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8
36	$22.25	$31.10	$35.85	$43.55	$48.65	$63.85
37	22.75	31.95	36.80	44.65	49.90	65.60
38	23.30	32.65	37.70	45.85	51.15	67.30
39	23.75	33.50	38.65	47.00	52.40	69.05
40	24.25	34.30	39.60	48.10	53.60	70.75
41	24.70	35.00	40.45	49.25	54.85	72.45
42	25.20	35.85	41.35	50.30	56.15	74.20
43	25.65	36.60	42.30	51.50	57.40	75.90
44	26.15	37.40	43.25	52.60	58.70	77.60
45	26.60	38.20	44.15	53.75	59.95	79.35
46	27.10	39.00	45.05	54.85	61.20	81.05
47	27.55	39.75	46.00	56.05	62.50	82.75
48	28.05	40.60	46.95	57.20	63.75	84.50
49	28.50	41.35	47.80	58.30	65.05	86.20
50	28.95	42.15	48.75	59.45	66.30	87.95
51	29.45	42.95	49.65	60.55	67.55	89.65
52	29.90	43.75	50.60	61.75	68.80	91.35
53	30.40	44.50	51.50	62.85	70.05	93.10
54	30.85	45.25	52.45	63.95	71.30	94.80
55	31.35	46.10	53.40	65.05	72.50	96.50
56	31.80	46.85	54.25	66.25	73.75	98.25
57	32.30	47.65	55.15	67.35	75.00	99.95
58	32.75	48.45	56.10	68.50	76.25	101.65
59	33.25	49.25	57.05	69.60	77.50	103.40
60	33.70	50.00	58.00	70.80	78.75	105.10
61	34.20	50.85	58.85	71.95	80.00	106.85
62	34.65	51.55	59.80	73.05	81.25	108.55
63	35.15	52.40	60.75	74.20	82.50	110.25
64	35.60	53.20	61.70	75.35	83.70	112.00
65	36.10	53.90	62.50	76.45	84.95	113.70
66	36.55	54.75	63.45	77.55	86.20	115.40
67	37.05	55.60	64.40	78.70	87.45	117.15
68	37.50	56.30	65.35	79.80	88.70	118.85
69	38.00	57.10	66.25	81.00	89.95	120.55
70	38.45	57.95	67.15	82.10	91.20	122.30

100

10.0 KEYS AND IDENTIFICATION DEVICES

Weight Not Over (ounces)	Rate[1]
1[2]	$0.97
2	1.20
3	1.43
4	1.66
5	1.89
6	2.12
7	2.35
8	2.58
9	2.81
10	3.04
11	3.27
12	3.50
13	3.73
1 pound	4.45
2 pounds	(zoned)[3]

1. Includes $0.60 fee.
2. Nonmachinable surcharge in 11.0 might apply.
3. For pieces that weigh up to 2 pounds, use the zoned 2-pound Priority Mail rate plus the $0.60 fee.

11.0 NONMACHINABLE SURCHARGES

Surcharge per piece (see C050.2.2, E130, and E140):

a. Single-piece rate: $0.12.

b. Presorted and automation rate: $0.055.

12.0 FEES

Presort Mailing Fee 12.1

Presort mailing fee, per 12-month period, per office of mailing: $150.00.

Pickup Fee 12.2

Priority Mail only, per occurrence: $12.50.

May be combined with Express Mail and Package Services pickups (see D010).

R200 Periodicals

1.0 OUTSIDE-COUNTY—EXCLUDING SCIENCE-OF-AGRICULTURE

Pound Rates 1.1

Per pound or fraction:

a. For the nonadvertising portion: $0.193.

b. For the advertising portion:

Zone	Rate
DDU	$0.158
DSCF	0.203
DADC	0.223
1 & 2	0.248
3	0.267
4	0.315
5	0.389
6	0.466
7	0.559
8	0.638

Piece Rates 1.2

Per addressed piece:

		Automation[1]	
Presort Level	Nonautomation	Letter-Size	Flat-Size
Basic	$0.373	$0.281	$0.325
3-Digit	0.324	0.249	0.283
5-Digit	0.258	0.195	0.226
Carrier Route			
Basic	0.163	—	—
High Density	0.131	—	—
Saturation	0.112	—	—

1. Lower maximum weight limits apply: letter-size at 3 ounces (or 3.3 ounces for heavy letters); flat-size at 16 ounces (FSM 881) and 6 pounds (FSM 1000).

Discounts 1.3

Piece rate discounts:

a. Nonadvertising adjustment for each 1% of nonadvertising content: $0.00074 per piece.

b. Destination delivery unit discount for each addressed piece: $0.018.

c. Destination SCF discount for each addressed piece: $0.008.

d. Destination ADC discount for each addressed piece: $0.002.

e. Destination entry pallet discount for each addressed piece: $0.015.

f. Pallet discount (for other than 1.3e) for each addressed piece: $0.005.

Classroom 1.5 Authorized Classroom mailers receive a discount of 5% off the total Outside-County postage excluding the postage for advertising pounds. The 5% discount does not apply to commingled nonsubscriber copies in excess of the 10% allowance provided under E215.

2.0 OUTSIDE-COUNTY—SCIENCE-OF-AGRICULTURE

Pound Rates 2.1 Per pound or fraction:

a. For the nonadvertising portion: $0.193.

b. For the advertising portion:

Zone	Rate
DDU	$0.119
DSCF	0.152
DADC	0.167
1 & 2	0.186
3	0.267
4	0.315
5	0.389
6	0.466
7	0.559
8	0.638

Piece Rates 2.2 Per addressed piece:

		Automation[1]	
Presort Level	Nonautomation	Letter-Size	Flat-Size
Basic	$0.373	$0.281	$0.325
3-Digit	0.324	0.249	0.283
5-Digit	0.258	0.195	0.226
Carrier Route			
Basic	0.163	—	—
High Density	0.131	—	—
Saturation	0.112	—	—

1. Lower maximum weight limits apply: letter-size at 3 ounces (or 3.3 ounces for heavy letters); flat-size at 16 ounces (FSM 881) and 6 pounds (FSM 1000).

Discounts 2.3

Piece rate discounts:

a. Nonadvertising adjustment for each 1% of nonadvertising content: $0.00074 per piece.

b. Destination delivery unit discount for each addressed piece: $0.018.

c. Destination SCF discount for each addressed piece: $0.008.

d. Destination ADC discount for each addressed piece: $0.002.

e. Destination entry pallet discount for each addressed piece: $0.015.

f. Pallet discount (for other than 2.3e) for each addressed piece: $0.005.

3.0 IN-COUNTY

Pound Rates 3.1

Per pound or fraction:

Zone	Rate
DDU	$0.112
All Other	0.146

Piece Rates 3.2

Per addressed piece:

		Automation[1]	
Presort Level	Nonautomation	Letter-Size	Flat-Size
Basic	$0.106	$0.050	$0.077
3-Digit	0.097	0.048	0.073
5-Digit	0.087	0.046	0.067
Carrier Route			
Basic	0.050	—	—
High Density	0.034	—	—
Saturation	0.028	—	—

1. Lower maximum weight limits apply: letter-size at 3 ounces (or 3.3 ounces for heavy letters); flat-size at 16 ounces (FSM 881) and 6 pounds (FSM 1000).

Discount 3.3

Destination delivery unit discount for each addressed piece: $0.006.

4.0 RIDE-ALONG RATE (E260)

Rate per ride-along piece: $0.124.

5.0 FEES

Per application:

a. Original entry: $375.00.

b. News agent registry: $40.00.

c. Additional entry: $60.00.

d. Reentry: $40.00.

200

R500 Express Mail

1.0 EXPRESS MAIL—ALL SERVICE LEVELS

The 1/2-pound rate is charged for matter sent in an Express Mail flat-rate envelope provided by the USPS, regardless of the actual weight of the piece.

Weight Not Over (pounds)	Service[1]			Weight Not Over (pounds)	Service[1]		
	Custom Designed	Next Day & Second Day PO to PO	Next Day & Second Day PO to Addressee		Custom Designed	Next Day & Second Day PO to PO	Next Day & Second Day PO to Addressee
1/2	$10.70	$10.40	$13.65	36	$73.75	$73.45	$76.70
1	14.90	14.60	17.85	37	75.40	75.10	78.35
2	14.90	14.60	17.85	38	77.20	76.90	80.15
3	18.10	17.80	21.05	39	78.95	78.65	81.90
4	21.25	20.95	24.20	40	80.75	80.45	83.70
5	24.35	24.05	27.30	41	82.55	82.25	85.50
6	27.45	27.15	30.40	42	84.40	84.10	87.35
7	30.50	30.20	33.45	43	86.10	85.80	89.05
8	31.80	31.50	34.75	44	87.85	87.55	90.80
9	33.25	32.95	36.20	45	89.45	89.15	92.40
10	34.55	34.25	37.50	46	90.80	90.50	93.75
11	36.25	35.95	39.20	47	92.45	92.15	95.40
12	38.90	38.60	41.85	48	93.90	93.60	96.85
13	40.80	40.50	43.75	49	95.30	95.00	98.25
14	41.85	41.55	44.80	50	96.80	96.50	99.75
15	43.15	42.85	46.10	51	98.40	98.10	101.35
16	44.70	44.40	47.65	52	99.80	99.50	102.75
17	46.20	45.90	49.15	53	101.35	101.05	104.30
18	47.60	47.30	50.55	54	102.80	102.50	105.75
19	49.05	48.75	52.00	55	104.30	104.00	107.25
20	50.50	50.20	53.45	56	105.85	105.55	108.80
21	51.95	51.65	54.90	57	107.30	107.00	110.25
22	53.40	53.10	56.35	58	108.85	108.55	111.80
23	54.90	54.60	57.85	59	110.45	110.15	113.40
24	56.30	56.00	59.25	60	112.20	111.90	115.15
25	57.70	57.40	60.65	61	114.10	113.80	117.05
26	59.20	58.90	62.15	62	115.85	115.55	118.80
27	60.60	60.30	63.55	63	117.55	117.25	120.50
28	62.10	61.80	65.05	64	119.50	119.20	122.45
29	63.55	63.25	66.50	65	121.20	120.90	124.15
30	65.00	64.70	67.95	66	123.10	122.80	126.05
31	66.45	66.15	69.40	67	124.80	124.50	127.75
32	67.95	67.65	70.90	68	126.70	126.40	129.65
33	69.30	69.00	72.25	69	128.45	128.15	131.40
34	70.85	70.55	73.80	70	130.25	129.95	133.20
35	72.20	71.90	75.15				

1. Same Day Airport service is currently suspended.

2.0	**FEES**
Pickup Fee 2.1	Per occurrence: $12.50. May be combined with Priority Mail and Package Services pickups (see D010).
Fee for Delivery Stops 2.2	Custom Designed Service only, each: $12.50.

R600 Standard Mail

1.0 REGULAR STANDARD MAIL

Letters—3.3 oz. or Less
1.1

For pieces 3.3 ounces (0.2063 pound) or less:

	Presorted[1]		Automation[2]			
Entry Discount	Basic	3/5	Mixed AADC	AADC	3-Digit	5-Digit
None	$0.268	$0.248	$0.219	$0.212	$0.203	$0.190
DBMC	0.247	0.227	0.198	0.191	0.182	0.169
DSCF	0.242	0.222	0.193	0.186	0.177	0.164

1. Nonmachinable letters are subject to a $0.04 nonmachinable surcharge.
2. See 1.3 for automation letters weighing over 3.3 ounces.

Nonletters—3.3 oz. or Less
1.2

For pieces 3.3 ounces (0.2063 pound) or less:

	Presorted[1,2]		Automation	
Entry Discount	Basic	3/5	Basic	3/5
None	$0.344	$0.288	$0.300	$0.261
DBMC	0.323	0.267	0.279	0.240
DSCF	0.318	0.262	0.274	0.235

1. The residual shape surcharge of $0.23 per piece applies to items that are prepared as a parcel or are not letter-size or flat-size.
2. Machinable parcels for which the residual shape surcharge is paid may be eligible for the barcoded discount of $0.03 per piece (see E620). The barcoded discount is available for pieces entered at DSCF rates only if sorted to 5-digit sacks or pallets. Except for mail entered at the Phoenix, AZ, ASF, the barcoded discount is not available for DBMC rate mail entered at an ASF.

Letters and Nonletters—More Than 3.3 oz.
1.3

For pieces more than 3.3 ounces (0.2063 pound). Each piece is subject to both a piece rate and a pound rate.

	Presorted[1,2]		Automation[3]	
Piece/Pound Rate	Basic	3/5	Basic	3/5
Per Piece	$0.198	$0.142	$0.154	$0.115
PLUS	PLUS	PLUS	PLUS	PLUS
Per Pound				
None	$0.708	$0.708	$0.708	$0.708
DBMC	0.608	0.608	0.608	0.608
DSCF	0.583	0.583	0.583	0.583

1. Residual shape surcharge of $0.23 per piece applies to items that are prepared as a parcel or are not letter-size or flat-size.
2. Machinable parcels for which the residual shape surcharge is paid may be eligible for the barcoded discount of $0.03 per piece (see E620). The barcoded discount is available for pieces entered at DSCF rates only if sorted to 5-digit sacks or pallets. Except for mail entered at the Phoenix, AZ, ASF, the barcoded discount is not available for DBMC rate mail entered at an ASF.
3. Letters that weigh up to 3.5 ounces receive a discount that equals the applicable nonletter piece rate (3.3 oz. or less) minus the applicable letter piece rate (3.3 oz. or less).

2.0 ENHANCED CARRIER ROUTE STANDARD MAIL

Letters—3.3 oz. or Less 2.1

For pieces 3.3 ounces (0.2063 pound) or less:

Entry Discount	Basic	High Density[1]	Saturation[1]	Automation Basic
None	$0.194	$0.164	$0.152	$0.171
DBMC	0.173	0.143	0.131	0.150
DSCF	0.168	0.138	0.126	0.145
DDU	0.162	0.132	0.120	0.139

1. See 2.3 for letters weighing over 3.3 ounces.

Nonletters—3.3 oz. or Less 2.2

For pieces 3.3 ounces (0.2063 pound) or less. Residual shape surcharge of $0.20 per piece applies to items that are prepared as a parcel or are not letter-size or flat-size.

Entry Discount	Basic	High Density	Saturation
None	$0.194	$0.169	$0.160
DBMC	0.173	0.148	0.139
DSCF	0.168	0.143	0.134
DDU	0.162	0.137	0.128

Letters and Nonletters—More Than 3.3 oz. 2.3

For pieces more than 3.3 ounces (0.2063 pound). Each piece is subject to both a piece rate and a pound rate. Residual shape surcharge of $0.20 per piece applies to items that are prepared as a parcel or are not letter-size or flat-size.

Piece/Pound Rate	Basic	High Density[1]	Saturation[1]
Per Piece	$0.068	$0.043	$0.034
PLUS	PLUS	PLUS	PLUS
Per Pound			
None	$0.610	$0.610	$0.610
DBMC	0.510	0.510	0.510
DSCF	0.485	0.485	0.485
DDU	0.453	0.453	0.453

1. Letter-rate pieces that weigh up to 3.5 ounces receive a discount that equals the applicable nonletter piece rate (3.3 oz. or less) minus the applicable letter piece rate (3.3 oz. or less).

3.0 NONPROFIT STANDARD MAIL

Letters—3.3 oz. or Less
3.1

For pieces 3.3 ounces (0.2063 pound) or less:

	Presorted[1]		Automation[2]			
Entry Discount	Basic	3/5	Mixed AADC	AADC	3-Digit	5-Digit
None	$0.165	$0.153	$0.144	$0.136	$0.129	$0.114
DBMC	0.144	0.132	0.123	0.115	0.108	0.093
DSCF	0.139	0.127	0.118	0.110	0.103	0.088

1. Nonmachinable letters are subject to a $0.02 nonmachinable surcharge.
2. See 1.3 for automation letters weighing over 3.3 ounces.

Nonletters—3.3 oz. or Less
3.2

For pieces 3.3 ounces (0.2063 pound) or less:

	Presorted[1,2]		Automation	
Entry Discount	Basic	3/5	Basic	3/5
None	$0.230	$0.183	$0.189	$0.166
DBMC	0.209	0.162	0.168	0.145
DSCF	0.204	0.157	0.163	0.140

1. Residual shape surcharge of $0.23 per piece applies to items that are prepared as a parcel or are not letter-size or flat-size.
2. Machinable parcels for which the residual shape surcharge is paid may be eligible for the barcoded discount of $0.03 per piece (see E620). The barcoded discount is available for pieces entered at DSCF rates only if sorted to 5-digit sacks or pallets. Except for mail entered at the Phoenix, AZ, ASF, the barcoded discount is not available for DBMC rate mail entered at an ASF.

Letters and Nonletters—More Than 3.3 oz.
3.3

For pieces more than 3.3 ounces (0.2063 pound). Each piece is subject to both a piece rate and a pound rate.

	Presorted[1,2]		Automation[3]	
Piece/Pound Rate	Basic	3/5	Basic	3/5
Per Piece	$0.110	$0.063	$0.069	$0.046
PLUS	PLUS	PLUS	PLUS	PLUS
Per Pound				
None	$0.584	$0.584	$0.584	$0.584
DBMC	0.484	0.484	0.484	0.484
DSCF	0.459	0.459	0.459	0.459

1. Residual shape surcharge of $0.23 per piece applies to items that are prepared as a parcel or are not letter-size or flat-size.
2. Machinable parcels for which the residual shape surcharge is paid may be eligible for the barcoded discount of $0.03 per piece (see E620). The barcoded discount is available for pieces entered at DSCF rates only if sorted to 5-digit sacks or pallets. Except for mail entered at the Phoenix, AZ, ASF, the barcoded discount is not available for DBMC rate mail entered at an ASF.
3. Letters that weigh up to 3.5 ounces receive a discount that equals the applicable nonletter piece rate (3.3 oz. or less) minus the applicable letter rate (3.3 oz. or less).

600

4.0 NONPROFIT ENHANCED CARRIER ROUTE STANDARD MAIL

Letters—3.3 oz. or Less 4.1

For pieces 3.3 ounces (0.2063 pound) or less:

Entry Discount	Basic	High Density[1]	Saturation[1]	Automation Basic
None	$0.126	$0.102	$0.095	$0.111
DBMC	0.105	0.081	0.074	0.090
DSCF	0.100	0.076	0.069	0.085
DDU	0.094	0.070	0.063	0.079

1. See 4.3 for letters weighing over 3.3 ounces.

Nonletters 3.3 oz. or Less 4.2

For pieces 3.3 ounces (0.2063 pound) or less. Residual shape surcharge of $0.20 per piece applies to items that are prepared as a parcel or are not letter-size or flat-size.

Entry Discount	Basic	High Density	Saturation
None	$0.126	$0.110	$0.104
DBMC	0.105	0.089	0.083
DSCF	0.100	0.084	0.078
DDU	0.094	0.078	0.072

Letters and Nonletters—More Than 3.3 oz. 4.3

For pieces more than 3.3 ounces (0.2063 pound). Each piece is subject to both a piece rate and a pound rate. Residual shape surcharge of $0.20 per piece applies to items that are prepared as a parcel or are not letter-size or flat-size.

Piece/Pound Rate	Basic	High Density[1]	Saturation[1]
Per Piece	$0.050	$0.034	$0.028
PLUS	PLUS	PLUS	PLUS
Per Pound			
None	$0.370	$0.370	$0.370
DBMC	0.270	0.270	0.270
DSCF	0.245	0.245	0.245
DDU	0.213	0.213	0.213

1. Letter-rate pieces that weigh up to 3.5 ounces receive a discount that equals the applicable nonletter piece rate (3.3 oz. or less) minus the applicable letter piece rate (3.3 oz. or less).

5.0 NONMACHINABLE SURCHARGE

Surcharge per piece:

a. Presorted Regular: $0.04.

b. Presorted nonprofit: $0.02.

6.0 RESIDUAL SHAPE SURCHARGE

Items that are prepared as a parcel or are neither letter-size nor flat-size, per piece:

Rate Category	Surcharge
Presorted Regular and Nonprofit	$0.23
Enhanced Carrier Route and Nonprofit Enhanced Carrier Route	0.20

7.0 BARCODED DISCOUNT

Deduct $0.03 per piece for machinable parcels with a barcode.

8.0 FEES

Mailing Fee 8.1 Mailing fee, per 12-month period: $150.00.

Weighted Fee 8.2 For return of pieces bearing the ancillary service markings "Address Service Requested" and "Forwarding Service Requested":

Single-Piece Weight Not Over (ounces)	**Weighted Fee per Piece**[1]
1	$0.92
2	1.49
3	2.06
4	2.63
5	3.19
6	3.76
7	4.33
8	4.90
9	5.47
10	6.04
11	6.61
12	7.17
13	7.74
Over 13 but under 16	9.52

1. Weighted fee equals single-piece First-Class Mail or Priority Mail rate multiplied by 2.472 (see F010).

600

R700 Package Services

1.0 PARCEL POST

Inter-BMC/ASF Machinable Parcel Post 1.1

For barcoded discount, deduct $0.03 per parcel (machinable parcels only, 50-piece minimum).
For OBMC Presort discount, deduct $1.17 per parcel. For BMC Presort discount, deduct $0.28 per parcel.
Parcels that weigh less than 15 pounds but measure more than 84 inches (but not more than 108 inches) in combined length and girth are charged the applicable rate for a 15-pound parcel.
Regardless of weight, a parcel that meets any of the criteria in C700.2.0 must pay the rate for a nonmachinable parcel in 1.2.

Weight Not Over (pounds)	Zones 1 & 2	Zone 3	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8
1	$3.69	$3.75	$3.75	$3.75	$3.75	$3.75	$3.75
2	3.85	3.85	4.14	4.14	4.49	4.49	4.49
3	4.65	4.65	5.55	5.65	5.71	5.77	6.32
4	4.86	5.20	6.29	6.93	7.14	7.20	7.87
5	5.03	5.71	6.94	7.75	8.58	8.64	9.43
6	5.63	6.01	7.44	8.50	9.52	9.90	11.49
7	5.80	6.28	7.91	9.20	10.35	11.39	12.83
8	5.98	6.53	8.30	9.84	11.11	12.54	15.04
9	6.11	6.76	8.74	10.45	11.83	13.38	17.04
10	6.28	7.57	9.10	11.01	12.50	14.17	18.14
11	6.41	7.80	9.47	11.54	13.13	14.92	19.15
12	6.54	8.01	9.80	12.04	13.72	15.62	20.10
13	6.67	8.19	10.12	12.51	14.28	16.27	20.99
14	6.80	8.42	10.43	12.95	14.81	16.90	21.84
15	6.92	8.61	10.73	13.38	15.31	17.49	22.64
16	7.02	8.79	11.00	13.78	15.79	18.05	23.41
17	7.15	8.94	11.28	14.16	16.24	18.59	24.13
18	7.25	9.11	11.52	14.52	16.68	19.09	24.82
19	7.37	9.28	11.77	14.87	17.09	19.58	25.48
20	7.46	9.43	11.98	15.20	17.48	20.05	26.12
21	7.57	9.59	12.20	15.52	17.86	20.49	26.72
22	7.66	9.72	12.42	15.82	18.22	20.92	27.30
23	7.76	9.89	12.65	16.11	18.57	21.32	27.85
24	7.83	10.01	12.83	16.39	18.90	21.72	28.39
25	7.93	10.14	13.03	16.66	19.22	22.09	28.90
26	8.01	10.27	13.21	16.92	19.53	22.46	29.39
27	8.11	10.40	13.38	17.17	19.83	22.81	29.87
28	8.18	10.52	13.58	17.41	20.11	23.14	30.32
29	8.27	10.65	13.75	17.64	20.39	23.47	30.76
30	8.35	10.76	13.90	17.87	20.65	23.78	31.19
31	8.44	10.86	14.06	18.08	20.91	24.08	31.60
32	8.50	10.99	14.22	18.29	21.16	24.37	32.00
33	8.58	11.10	14.38	18.49	21.40	24.65	32.38
34	8.66	11.18	14.51	18.69	21.63	24.93	32.75
35	8.74	11.30	14.66	18.88	21.85	25.19	33.11

For parcels that weigh more than 35 pounds, see 1.2.

1.2 Inter-BMC/ASF Nonmachinable Parcel Post

Rates shown include the $2.75 nonmachinable surcharge. The nonmachinable surcharge does not apply to parcels mailed at oversized rates or parcels sent with special handling. Regardless of weight, a parcel that meets any of the criteria in C700.2.0 must pay the rate listed in this table.

For OBMC Presort discount, deduct $1.17 per parcel. For BMC Presort discount, deduct $0.28 per parcel.

Parcels that weigh less than 15 pounds but measure more than 84 inches (but not more than 108 inches) in combined length and girth are charged the applicable rate for a 15-pound parcel.

Regardless of weight, a parcel that measures more than 108 inches (but not more than 130 inches) in combined length and girth must pay the oversized rate.

Weight Not Over (pounds)	Zones 1 & 2	Zone 3	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8
1	$6.44	$6.50	$6.50	$6.50	$6.50	$6.50	$6.50
2	6.60	6.60	6.89	6.89	7.24	7.24	7.24
3	7.40	7.40	8.30	8.40	8.46	8.52	9.07
4	7.61	7.95	9.04	9.68	9.89	9.95	10.62
5	7.78	8.46	9.69	10.50	11.33	11.39	12.18
6	8.38	8.76	10.19	11.25	12.27	12.65	14.24
7	8.55	9.03	10.66	11.95	13.10	14.14	15.58
8	8.73	9.28	11.05	12.59	13.86	15.29	17.79
9	8.86	9.51	11.49	13.20	14.58	16.13	19.79
10	9.03	10.32	11.85	13.76	15.25	16.92	20.89
11	9.16	10.55	12.22	14.29	15.88	17.67	21.90
12	9.29	10.76	12.55	14.79	16.47	18.37	22.85
13	9.42	10.94	12.87	15.26	17.03	19.02	23.74
14	9.55	11.17	13.18	15.70	17.56	19.65	24.59
15	9.67	11.36	13.48	16.13	18.06	20.24	25.39
16	9.77	11.54	13.75	16.53	18.54	20.80	26.16
17	9.90	11.69	14.03	16.91	18.99	21.34	26.88
18	10.00	11.86	14.27	17.27	19.43	21.84	27.57
19	10.12	12.03	14.52	17.62	19.84	22.33	28.23
20	10.21	12.18	14.73	17.95	20.23	22.80	28.87
21	10.32	12.34	14.95	18.27	20.61	23.24	29.47
22	10.41	12.47	15.17	18.57	20.97	23.67	30.05
23	10.51	12.64	15.40	18.86	21.32	24.07	30.60
24	10.58	12.76	15.58	19.14	21.65	24.47	31.14
25	10.68	12.89	15.78	19.41	21.97	24.84	31.65
26	10.76	13.02	15.96	19.67	22.28	25.21	32.14
27	10.86	13.15	16.13	19.92	22.58	25.56	32.62
28	10.93	13.27	16.33	20.16	22.86	25.89	33.07
29	11.02	13.40	16.50	20.39	23.14	26.22	33.51
30	11.10	13.51	16.65	20.62	23.40	26.53	33.94
31	11.19	13.61	16.81	20.83	23.66	26.83	34.35
32	11.25	13.74	16.97	21.04	23.91	27.12	34.75
33	11.33	13.85	17.13	21.24	24.15	27.40	35.13
34	11.41	13.93	17.26	21.44	24.38	27.68	35.50
35	11.49	14.05	17.41	21.63	24.60	27.94	35.86
36	11.55	14.14	17.57	21.81	24.82	28.20	36.20

Weight Not Over (pounds)	Zones 1 & 2	Zone 3	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8
37	$11.62	$14.23	$17.68	$21.98	$25.03	$28.44	$36.54
38	11.69	14.35	17.82	22.16	25.23	28.68	36.87
39	11.77	14.42	17.94	22.32	25.43	28.92	37.18
40	11.84	14.53	18.07	22.48	25.62	29.14	37.49
41	11.92	14.63	18.19	22.64	25.81	29.36	37.79
42	11.98	14.71	18.31	22.79	25.99	29.57	38.08
43	12.03	14.80	18.43	22.94	26.16	29.78	38.36
44	12.10	14.87	18.54	23.08	26.33	29.98	38.63
45	12.16	14.97	18.66	23.22	26.50	30.18	38.89
46	12.23	15.05	18.77	23.36	26.66	30.37	39.15
47	12.31	15.14	18.87	23.49	26.81	30.55	39.40
48	12.36	15.22	18.99	23.61	26.97	30.73	39.64
49	12.41	15.30	19.09	23.74	27.11	30.90	39.88
50	12.47	15.36	19.17	23.86	27.26	31.07	40.11
51	12.54	15.45	19.29	23.98	27.40	31.24	40.34
52	12.59	15.53	19.38	24.09	27.54	31.40	40.55
53	12.66	15.59	19.45	24.20	27.67	31.56	40.77
54	12.71	15.69	19.56	24.31	27.80	31.71	40.97
55	12.76	15.72	19.66	24.42	27.92	31.86	41.18
56	12.84	15.83	19.74	24.52	28.05	32.00	41.37
57	12.89	15.89	19.84	24.62	28.17	32.14	41.57
58	12.94	15.96	19.91	24.72	28.28	32.28	41.75
59	13.01	16.02	20.01	24.82	28.40	32.42	41.94
60	13.06	16.09	20.10	24.91	28.51	32.55	42.11
61	13.14	16.18	20.17	25.00	28.62	32.67	42.29
62	13.19	16.23	20.25	25.09	28.72	32.80	42.46
63	13.22	16.31	20.34	25.18	28.83	32.92	42.62
64	13.27	16.36	20.41	25.26	28.93	33.04	42.78
65	13.33	16.43	20.49	25.35	29.03	33.16	42.94
66	13.40	16.50	20.56	25.43	29.12	33.27	43.10
67	13.46	16.56	20.64	25.51	29.22	33.38	43.25
68	13.50	16.62	20.73	25.59	29.31	33.49	43.39
69	13.55	16.67	20.80	25.66	29.40	33.59	43.54
70	13.61	16.75	20.87	25.73	29.49	33.70	43.68
Oversized	41.70	46.73	54.12	65.84	79.69	92.81	120.72

Intra-BMC/ASF Machinable Parcel Post
1.3

For parcels that originate and destinate in the same BMC service area.

For barcoded discount, deduct $0.03 per parcel (machinable parcels only if part of a mailing of at least 50 pieces).

Parcels that weigh less than 15 pounds but measure more than 84 inches (but not more than 108 inches) in combined length and girth are charged the applicable rate for a 15-pound parcel.

Regardless of weight, a parcel that meets any of the criteria in C700.2.0 must pay the rate for a nonmachinable parcel in 1.4.

Weight Not Over (pounds)	Local Zone	Zones 1 & 2	Zone 3	Zone 4	Zone 5
1	$2.81	$2.96	$2.99	$3.05	$3.14
2	3.13	3.53	3.56	3.63	3.74
3	3.44	4.08	4.11	4.20	4.32
4	3.73	4.28	4.62	4.72	4.86
5	3.99	4.45	5.02	5.15	5.35
6	4.23	4.61	5.38	5.51	5.80
7	4.36	4.76	5.69	5.84	6.21
8	4.46	5.33	5.98	6.14	6.60
9	4.56	5.46	6.22	6.45	6.95
10	4.66	5.63	6.53	6.74	7.28
11	4.74	5.76	6.74	7.00	7.58
12	4.84	5.91	6.94	7.26	7.87
13	4.92	6.04	7.10	7.50	8.13
14	5.00	6.16	7.22	7.75	8.38
15	5.08	6.27	7.39	7.96	8.62
16	5.17	6.38	7.56	8.16	8.84
17	5.23	6.51	7.72	8.38	9.05
18	5.30	6.60	7.87	8.57	9.24
19	5.36	6.72	8.02	8.75	9.43
20	5.46	6.82	8.16	8.91	9.60
21	5.51	6.91	8.30	9.06	9.77
22	5.57	7.02	8.42	9.20	9.92
23	5.64	7.10	8.58	9.34	10.07
24	5.70	7.19	8.70	9.46	10.22
25	5.77	7.27	8.82	9.58	10.35
26	5.82	7.37	8.93	9.71	10.48
27	5.88	7.45	9.06	9.82	10.60
28	5.94	7.52	9.18	9.91	10.72
29	6.01	7.61	9.30	10.02	10.83
30	6.08	7.69	9.40	10.12	10.93
31	6.13	7.77	9.48	10.21	11.04
32	6.18	7.86	9.60	10.31	11.13
33	6.25	7.92	9.70	10.39	11.23
34	6.30	8.00	9.78	10.47	11.31
35	6.35	8.06	9.89	10.55	11.40

For parcels that weigh more than 35 pounds, see 1.4.

Intra-BMC/ASF Nonmachinable Parcel Post

1.4 Rates shown include the $1.35 nonmachinable surcharge. The nonmachinable surcharge does not apply to parcels mailed at oversized rates or parcels sent with special handling. Regardless of weight, a parcel that meets any of the criteria in C700.2.0 must pay the rate listed in this table.

Parcels that weigh less than 15 pounds but measure more than 84 inches (but not more than 108 inches) in combined length and girth are charged the applicable rate for a 15-pound parcel.

Regardless of weight, a parcel that measures more than 108 inches (but not more than 130 inches) in combined length and girth must pay the oversized rate.

Weight Not Over (pounds)	Local Zone	Zones 1&2	Zone 3	Zone 4	Zone 5
1	$4.16	$4.31	$4.34	$4.40	$4.49
2	4.48	4.88	4.91	4.98	5.09
3	4.79	5.43	5.46	5.55	5.67
4	5.08	5.63	5.97	6.07	6.21
5	5.34	5.80	6.37	6.50	6.70
6	5.58	5.96	6.73	6.86	7.15
7	5.71	6.11	7.04	7.19	7.56
8	5.81	6.68	7.33	7.49	7.95
9	5.91	6.81	7.57	7.80	8.30
10	6.01	6.98	7.88	8.09	8.63
11	6.09	7.11	8.09	8.35	8.93
12	6.19	7.26	8.29	8.61	9.22
13	6.27	7.39	8.45	8.85	9.48
14	6.35	7.51	8.57	9.10	9.73
15	6.43	7.62	8.74	9.31	9.97
16	6.52	7.73	8.91	9.51	10.19
17	6.58	7.86	9.07	9.73	10.40
18	6.65	7.95	9.22	9.92	10.59
19	6.71	8.07	9.37	10.10	10.78
20	6.81	8.17	9.51	10.26	10.95
21	6.86	8.26	9.65	10.41	11.12
22	6.92	8.37	9.77	10.55	11.27
23	6.99	8.45	9.93	10.69	11.42
24	7.05	8.54	10.05	10.81	11.57
25	7.12	8.62	10.17	10.93	11.70
26	7.17	8.72	10.28	11.06	11.83
27	7.23	8.80	10.41	11.17	11.95
28	7.29	8.87	10.53	11.26	12.07
29	7.36	8.96	10.65	11.37	12.18
30	7.43	9.04	10.75	11.47	12.28
31	7.48	9.12	10.83	11.56	12.39
32	7.53	9.21	10.95	11.66	12.48
33	7.60	9.27	11.05	11.74	12.58
34	7.65	9.35	11.13	11.82	12.66
35	7.70	9.41	11.24	11.90	12.75
36	7.75	9.48	11.32	11.97	12.83
37	$7.79	$9.57	$11.41	$12.05	$12.91
38	7.84	9.63	11.50	12.12	12.98
39	7.91	9.71	11.60	12.18	13.05
40	7.96	9.76	11.67	12.24	13.12
41	8.02	9.85	11.78	12.30	13.19
42	8.07	9.90	11.85	12.37	13.25
43	8.12	9.96	11.93	12.43	13.30
44	8.19	10.03	12.01	12.49	13.35
45	8.23	10.08	12.08	12.65	13.40
46	8.27	10.17	12.17	12.70	13.45
47	8.33	10.24	12.23	12.75	13.50
48	8.38	10.29	12.32	12.79	13.55
49	8.42	10.36	12.39	12.84	13.60
50	8.47	10.39	12.46	12.88	13.65
51	8.53	10.48	12.52	12.93	13.70
52	8.56	10.54	12.62	12.97	13.75
53	8.61	10.57	12.67	13.00	13.80
54	8.67	10.63	12.71	13.05	13.85
55	8.72	10.69	12.75	13.10	13.90
56	8.75	10.75	12.79	13.14	13.95
57	8.80	10.82	12.81	13.16	14.00
58	8.85	10.87	12.85	13.20	14.05
59	8.90	10.92	12.88	13.24	14.10
60	8.92	10.99	12.91	13.26	14.15
61	9.01	11.05	12.94	13.30	14.20
62	9.03	11.10	12.97	13.36	14.25
63	9.08	11.15	12.99	13.43	14.30
64	9.13	11.21	13.01	13.48	14.35
65	9.17	11.26	13.05	13.54	14.40
66	9.20	11.33	13.07	13.61	14.45
67	9.27	11.39	13.10	13.68	14.50
68	9.31	11.41	13.11	13.72	14.55
69	9.32	11.48	13.13	13.79	14.60
70	9.33	11.53	13.16	13.85	14.65
Oversized	23.78	34.47	34.79	35.48	36.53

Parcel Select — DBMC
1.5

Destination facility ZIP Codes only.

For barcoded discount, deduct $0.03 per parcel (machinable parcels only). Except for mail entered at the Phoenix, AZ, ASF, the barcoded discount is not available for DBMC mail entered at an ASF.

Parcels that weigh less than 15 pounds but measure more than 84 inches (but not more than 108 inches) in combined length and girth are charged the applicable rate for a 15-pound parcel.

Regardless of weight, a parcel that measures more than 108 inches (but not more than 130 inches) in combined length and girth must pay the oversized rate.

For nonmachinable Parcel Select DBMC parcels, add $1.45 per parcel. Any parcel that weighs more than 35 pounds or that meets any of the criteria in C700.2.0 must pay the nonmachinable surcharge. The nonmachinable surcharge does not apply to parcels mailed at oversized rates or parcels sent with special handling.

Weight Not Over (pounds)	Zones 1 & 2	Zone 3	Zone 4	Zone 5
1	$2.01	$2.26	$2.49	$3.09
2	2.24	2.76	3.19	3.69
3	2.49	3.27	3.84	4.28
4	2.72	3.75	4.41	4.81
5	2.94	4.20	4.82	5.30
6	3.15	4.60	5.16	5.75
7	3.34	4.96	5.47	6.18
8	3.53	5.32	5.76	6.56
9	3.71	5.64	6.05	6.91
10	3.88	5.97	6.71	7.24
11	4.04	6.27	6.96	7.54
12	4.20	6.56	7.22	7.84
13	4.35	6.80	7.46	8.10
14	4.50	6.92	7.71	8.35
15	4.64	7.08	7.92	8.58
16	4.77	7.24	8.13	8.81
17	4.91	7.39	8.35	9.01
18	5.03	7.54	8.53	9.21
19	5.16	7.68	8.72	9.40
20	5.28	7.82	8.88	9.56
21	5.40	7.96	9.02	9.73
22	5.51	8.08	9.17	9.89
23	5.62	8.23	9.31	10.05
24	5.73	8.34	9.43	10.18
25	5.84	8.46	9.55	10.32
26	5.94	8.56	9.67	10.45
27	6.05	8.69	9.78	10.57
28	6.14	8.81	9.88	10.68
29	6.24	8.92	10.00	10.79
30	6.34	9.02	10.09	10.90
31	6.43	9.10	10.17	11.01
32	6.52	9.21	10.27	11.11
33	6.61	9.30	10.38	11.19
34	6.70	9.39	10.43	11.28
35	6.78	9.49	10.52	11.37
36	6.87	9.94	10.60	11.45
37	$6.95	$10.03	$10.66	$11.53
38	7.03	10.12	10.74	11.60
39	7.11	10.21	10.80	11.68
40	7.19	10.29	10.86	11.74
41	7.27	10.40	10.92	11.80
42	7.34	10.47	10.99	11.87
43	7.42	10.56	11.05	12.16
44	7.49	10.63	11.11	12.45
45	7.56	10.69	11.26	12.76
46	7.63	10.79	11.31	13.06
47	7.70	10.85	11.36	13.37
48	7.77	10.94	11.41	13.69
49	7.84	11.01	11.46	14.01
50	7.91	11.08	11.50	14.35
51	7.97	11.15	11.55	14.68
52	8.04	11.23	11.59	15.02
53	8.10	11.28	11.63	15.38
54	8.16	11.33	11.68	15.74
55	8.23	11.37	11.73	15.89
56	8.29	11.40	11.75	15.96
57	8.35	11.43	11.78	16.06
58	8.41	11.47	11.82	16.14
59	8.47	11.50	11.85	16.21
60	8.52	11.53	11.88	16.30
61	8.58	11.56	11.92	16.38
62	8.64	11.59	11.98	16.44
63	8.69	11.61	12.05	16.52
64	8.75	11.64	12.10	16.59
65	8.80	11.67	12.16	16.65
66	8.86	11.70	12.24	16.74
67	8.91	11.72	12.29	16.79
68	8.96	11.73	12.34	16.86
69	9.01	11.75	12.40	16.93
70	9.06	11.77	12.47	16.99
Oversized	18.14	24.33	32.81	34.10

Parcel Select—DSCF

1.6

Destination facility ZIP Codes only.

Parcels that weigh less than 15 pounds but measure more than 84 inches (but not more than 108 inches) in combined length and girth are charged the applicable rate for a 15-pound parcel.

Regardless of weight, a parcel that measures more than 108 inches (but not more than 130 inches) in combined length and girth must pay the oversized rate.

For nonmachinable parcels sorted to 3-digit ZIP Code areas, add $1.09 per parcel. Any parcel that weighs more than 35 pounds or that meets any of the criteria in C700.2.0 must pay the nonmachinable surcharge. The nonmachinable surcharge does not apply to parcels mailed at oversized rates or parcels sent with special handling.

Weight Not Over (pounds)	DSCF
1	$1.53
2	1.71
3	1.85
4	1.99
5	2.12
6	2.24
7	2.35
8	2.45
9	2.56
10	2.65
11	2.74
12	2.83
13	2.92
14	3.00
15	3.10
16	3.19
17	3.28
18	3.36
19	3.45
20	3.53
21	3.61
22	3.68
23	3.76
24	3.83

Weight Not Over (pounds)	DSCF
25	$3.90
26	3.97
27	4.04
28	4.11
29	4.17
30	4.24
31	4.30
32	4.36
33	4.42
34	4.48
35	4.54
36	4.59
37	4.65
38	4.70
39	4.76
40	4.81
41	4.86
42	4.91
43	4.96
44	5.01
45	5.06
46	5.11
47	5.16
48	5.20

Weight Not Over (pounds)	DSCF
49	$5.25
50	5.29
51	5.34
52	5.38
53	5.42
54	5.46
55	5.51
56	5.55
57	5.59
58	5.63
59	5.67
60	5.71
61	5.74
62	5.78
63	5.82
64	5.86
65	5.89
66	5.93
67	5.97
68	6.00
69	6.04
70	6.07
Oversized	11.95

Parcel Select—DDU

1.7

Destination facility ZIP Codes only.

Parcels that weigh less than 15 pounds but measure more than 84 inches (but not more than 108 inches) in combined length and girth are charged the applicable rate for a 15-pound parcel.

Regardless of weight, a parcel that measures more than 108 inches (but not more than 130 inches) in combined length and girth must pay the oversized rate.

Weight Not Over (pounds)	DDU
1	$1.23
2	1.28
3	1.33
4	1.38
5	1.43
6	1.47
7	1.51
8	1.55
9	1.58
10	1.62
11	1.65
12	1.68
13	1.71
14	1.74
15	1.77
16	1.79
17	1.82
18	1.85
19	1.87
20	1.89
21	1.92
22	1.94
23	1.96
24	1.98

Weight Not Over (pounds)	DDU
25	$2.00
26	2.02
27	2.04
28	2.06
29	2.07
30	2.09
31	2.10
32	2.11
33	2.12
34	2.13
35	2.14
36	2.15
37	2.16
38	2.17
39	2.18
40	2.19
41	2.20
42	2.21
43	2.22
44	2.23
45	2.24
46	2.25
47	2.26
48	2.27

Weight Not Over (pounds)	DDU
49	$2.28
50	2.29
51	2.30
52	2.31
53	2.32
54	2.33
55	2.34
56	2.35
57	2.36
58	2.37
59	2.38
60	2.39
61	2.40
62	2.41
63	2.42
64	2.43
65	2.44
66	2.45
67	2.46
68	2.47
69	2.48
70	2.49
Oversized	6.98

2.0 BOUND PRINTED MATTER

Single-Piece—Flats 2.1

For barcoded discount, deduct $0.03 per piece (automatable flats only if part of a mailing of at least 50 pieces).

Weight Not Over (pounds)	Zones Local, 1 & 2	Zone 3	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8
1.0	$1.79	$1.84	$1.88	$1.96	$2.03	$2.12	$2.29
1.5	1.79	1.84	1.88	1.96	2.03	2.12	2.29
2.0	1.86	1.92	1.98	2.08	2.18	2.30	2.52
2.5	1.93	2.01	2.08	2.21	2.33	2.48	2.76
3.0	2.00	2.09	2.18	2.33	2.48	2.66	2.99
3.5	2.07	2.18	2.28	2.46	2.63	2.84	3.23
4.0	2.14	2.26	2.38	2.58	2.78	3.02	3.46
4.5	2.21	2.35	2.48	2.71	2.93	3.20	3.70
5.0	2.28	2.43	2.58	2.83	3.08	3.38	3.93
6.0	2.42	2.60	2.78	3.08	3.38	3.74	4.40
7.0	2.56	2.77	2.98	3.33	3.68	4.10	4.87
8.0	2.70	2.94	3.18	3.58	3.98	4.46	5.34
9.0	2.84	3.11	3.38	3.83	4.28	4.82	5.81
10.0	2.98	3.28	3.58	4.08	4.58	5.18	6.28
11.0	3.12	3.45	3.78	4.33	4.88	5.54	6.75
12.0	3.26	3.62	3.98	4.58	5.18	5.90	7.22
13.0	3.40	3.79	4.18	4.83	5.48	6.26	7.69
14.0	3.54	3.96	4.38	5.08	5.78	6.62	8.16
15.0	3.68	4.13	4.58	5.33	6.08	6.98	8.63

Single-Piece—Parcels 2.2

For barcoded discount, deduct $0.03 per parcel (machinable parcels only if part of a mailing of at least 50 pieces).

Weight Not Over (pounds)	Zones Local, 1 & 2	Zone 3	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8
1.0	$1.87	$1.92	$1.96	$2.04	$2.11	$2.20	$2.37
1.5	1.87	1.92	1.96	2.04	2.11	2.20	2.37
2.0	1.94	2.00	2.06	2.16	2.26	2.38	2.60
2.5	2.01	2.09	2.16	2.29	2.41	2.56	2.84
3.0	2.08	2.17	2.26	2.41	2.56	2.74	3.07
3.5	2.15	2.26	2.36	2.54	2.71	2.92	3.31
4.0	2.22	2.34	2.46	2.66	2.86	3.10	3.54
4.5	2.29	2.43	2.56	2.79	3.01	3.28	3.78
5.0	2.36	2.51	2.66	2.91	3.16	3.46	4.01
6.0	2.50	2.68	2.86	3.16	3.46	3.82	4.48
7.0	2.64	2.85	3.06	3.41	3.76	4.18	4.95
8.0	2.78	3.02	3.26	3.66	4.06	4.54	5.42
9.0	2.92	3.19	3.46	3.91	4.36	4.90	5.89
10.0	3.06	3.36	3.66	4.16	4.66	5.26	6.36
11.0	3.20	3.53	3.86	4.41	4.96	5.62	6.83
12.0	3.34	3.70	4.06	4.66	5.26	5.98	7.30
13.0	3.48	3.87	4.26	4.91	5.56	6.34	7.77
14.0	3.62	4.04	4.46	5.16	5.86	6.70	8.24
15.0	3.76	4.21	4.66	5.41	6.16	7.06	8.71

Presorted and Carrier Route—Flats
2.3

Each piece is subject to both a piece rate and a pound rate.

For barcoded discount on Presorted pieces, deduct $0.03 per piece. Barcoded discount is not available for pieces mailed at carrier route rates.

Rate	Zones Local, 1 & 2	Zone 3	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8
Per Piece							
Presorted	$1.078	$1.078	$1.078	$1.078	$1.078	$1.078	$1.078
Carrier Route	0.978	0.978	0.978	0.978	0.978	0.978	0.978
Per Pound	0.090	0.112	0.149	0.198	0.248	0.308	0.419

Presorted and Carrier Route—Parcels
2.4

Each piece is subject to both a piece rate and a pound rate.

For barcoded discount on Presorted pieces, deduct $0.03 per piece. Barcoded discount is not available for parcels mailed at carrier route rates.

Rate	Zones Local, 1 & 2	Zone 3	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8
Per Piece							
Presorted	$1.155	$1.155	$1.155	$1.155	$1.155	$1.155	$1.155
Carrier Route	1.055	1.055	1.055	1.055	1.055	1.055	1.055
Per Pound	0.090	0.112	0.149	0.198	0.248	0.308	0.419

Destination Entry Rates—Flats
2.5

Each piece is subject to both a piece rate and a pound rate.

For barcoded discount on Presorted pieces, deduct $0.03 per piece (automatable flats only). Barcoded discount is not available for pieces mailed at carrier route rates.

Presorted DDU rate is not available for flats that weigh 1 pound or less.

Rate	DDU	DSCF	DBMC Zone 1 & 2	DBMC Zone 3	DBMC Zone 4	DBMC Zone 5
Per Piece						
Presorted	$0.532	$0.603	$0.818	$0.818	$0.818	$0.818
Carrier Route	0.432	0.503	0.718	0.718	0.718	0.718
Per Pound	0.030	0.060	0.073	0.102	0.139	0.187

Destination Entry Rates—Parcels
2.6

Each piece is subject to both a piece rate and a pound rate.

For barcoded discount on Presorted pieces, deduct $0.03 per piece (machinable parcels only). Except for mail entered at the Phoenix, AZ, ASF, the barcoded discount is not available for DBMC mail entered at an ASF. Barcoded discount is not available for parcels mailed at carrier route rates.

Rate	DDU	DSCF	DBMC Zone 1 & 2	DBMC Zone 3	DBMC Zone 4	DBMC Zone 5
Per Piece						
Presorted	$0.609	$0.680	$0.895	$0.895	$0.895	$0.895
Carrier Route	0.509	0.580	0.795	0.795	0.795	0.795
Per Pound	0.030	0.060	0.073	0.102	0.139	0.187

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3.0 MEDIA MAIL

For barcoded discount for single-piece and basic rate, deduct $0.03 per parcel (machinable parcels only if part of a mailing of at least 50 pieces). Barcoded discount is not available for pieces sent at the 5-digit rate.

Weight Not Over (pounds)	Single-Piece	5-Digit	Basic
1	$1.42	$0.80	$1.12
2	1.84	1.22	1.54
3	2.26	1.64	1.96
4	2.68	2.06	2.38
5	3.10	2.48	2.80
6	3.52	2.90	3.22
7	3.94	3.32	3.64
8	4.24	3.62	3.94
9	4.54	3.92	4.24
10	4.84	4.22	4.54
11	5.14	4.52	4.84
12	5.44	4.82	5.14
13	5.74	5.12	5.44
14	6.04	5.42	5.74
15	6.34	5.72	6.04
16	6.64	6.02	6.34
17	6.94	6.32	6.64
18	7.24	6.62	6.94
19	7.54	6.92	7.24
20	7.84	7.22	7.54
21	8.14	7.52	7.84
22	8.44	7.82	8.14
23	8.74	8.12	8.44
24	9.04	8.42	8.74
25	9.34	8.72	9.04
26	9.64	9.02	9.34
27	9.94	9.32	9.64
28	10.24	9.62	9.94
29	10.54	9.92	10.24
30	10.84	10.22	10.54
31	11.14	10.52	10.84
32	11.44	10.82	11.14
33	11.74	11.12	11.44
34	12.04	11.42	11.74
35	12.34	11.72	12.04
36	$12.64	$12.02	$12.34
37	12.94	12.32	12.64
38	13.24	12.62	12.94
39	13.54	12.92	13.24
40	13.84	13.22	13.54
41	14.14	13.52	13.84
42	14.44	13.82	14.14
43	14.74	14.12	14.44
44	15.04	14.42	14.74
45	15.34	14.72	15.04
46	15.64	15.02	15.34
47	15.94	15.32	15.64
48	16.24	15.62	15.94
49	16.54	15.92	16.24
50	16.84	16.22	16.54
51	17.14	16.52	16.84
52	17.44	16.82	17.14
53	17.74	17.12	17.44
54	18.04	17.42	17.74
55	18.34	17.72	18.04
56	18.64	18.02	18.34
57	18.94	18.32	18.64
58	19.24	18.62	18.94
59	19.54	18.92	19.24
60	19.84	19.22	19.54
61	20.14	19.52	19.84
62	20.44	19.82	20.14
63	20.74	20.12	20.44
64	21.04	20.42	20.74
65	21.34	20.72	21.04
66	21.64	21.02	21.34
67	21.94	21.32	21.64
68	22.24	21.62	21.94
69	22.54	21.92	22.24
70	22.84	22.22	22.54

4.0 LIBRARY MAIL

For barcoded discount for single-piece and basic rate, deduct $0.03 per parcel (machinable parcels only if part of a mailing of at least 50 pieces). Barcoded discount is not available for pieces sent at the 5-digit rate.

Weight Not Over (pounds)	Single-Piece	5-Digit	Basic
1	$1.35	$0.76	$1.06
2	1.75	1.16	1.46
3	2.15	1.56	1.86
4	2.55	1.96	2.26
5	2.95	2.36	2.66
6	3.35	2.76	3.06
7	3.75	3.16	3.46
8	4.04	3.45	3.75
9	4.33	3.74	4.04
10	4.62	4.03	4.33
11	4.91	4.32	4.62
12	5.20	4.61	4.91
13	5.49	4.90	5.20
14	5.78	5.19	5.49
15	6.07	5.48	5.78
16	6.36	5.77	6.07
17	6.65	6.06	6.36
18	6.94	6.35	6.65
19	7.23	6.64	6.94
20	7.52	6.93	7.23
21	7.81	7.22	7.52
22	8.10	7.51	7.81
23	8.39	7.80	8.10
24	8.68	8.09	8.39
25	8.97	8.38	8.68
26	9.26	8.67	8.97
27	9.55	8.96	9.26
28	9.84	9.25	9.55
29	10.13	9.54	9.84
30	10.42	9.83	10.13
31	10.71	10.12	10.42
32	11.00	10.41	10.71
33	11.29	10.70	11.00
34	11.58	10.99	11.29
35	11.87	11.28	11.58
36	$12.16	$11.57	$11.87
37	12.45	11.86	12.16
38	12.74	12.15	12.45
39	13.03	12.44	12.74
40	13.32	12.73	13.03
41	13.61	13.02	13.32
42	13.90	13.31	13.61
43	14.19	13.60	13.90
44	14.48	13.89	14.19
45	14.77	14.18	14.48
46	15.06	14.47	14.77
47	15.35	14.76	15.06
48	15.64	15.05	15.35
49	15.93	15.34	15.64
50	16.22	15.63	15.93
51	16.51	15.92	16.22
52	16.80	16.21	16.51
53	17.09	16.50	16.80
54	17.38	16.79	17.09
55	17.67	17.08	17.38
56	17.96	17.37	17.67
57	18.25	17.66	17.96
58	18.54	17.95	18.25
59	18.83	18.24	18.54
60	19.12	18.53	18.83
61	19.41	18.82	19.12
62	19.70	19.11	19.41
63	19.99	19.40	19.70
64	20.28	19.69	19.99
65	20.57	19.98	20.28
66	20.86	20.27	20.57
67	21.15	20.56	20.86
68	21.44	20.85	21.15
69	21.73	21.14	21.44
70	22.02	21.43	21.73

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5.0 FEES

Destination Entry Mailing Fees
5.1

Destination entry mailing fees, per 12-month period:

a. Parcel Select: $150.00.

b. Bound Printed Matter: $150.00.

Pickup Fees
5.2

Parcel Post only, per occurrence: $12.50.

May be combined with Express Mail and Priority Mail pickups (see D010).

Presort Mailing Fees
5.3

Presort mailing fees, per 12-month period:

a. Presorted Media Mail: $150.00.

b. Presorted Library Mail: $150.00.

R900 Services

1.0 ADDRESS CORRECTION SERVICE (F030)

For all classes of mail:

a. Manual notice, each: $0.70.

b. Electronic notice, each: $0.20.

2.0 ADDRESS SEQUENCING SERVICE (A920)

Basic Service 2.1

Each card or address removed because of an incorrect or undeliverable address: $0.30.

Blanks for Missing Addresses 2.2

Each card or address removed because of an incorrect or undeliverable address: $0.30.

Insertion of blank cards for missing or new addresses: No charge.

Missing or New Addresses Added 2.3

Insertion of addressed cards for missing or new addresses: $0.30.

3.0 BULK PARCEL RETURN SERVICE (BPRS) (S924)

Permit Fee 3.1

Annual permit fee: $150.00.

Accounting Fee 3.2

Annual accounting fee: $475.00.

Per Piece Charge 3.3

For each piece returned, regardless of weight: $1.80.

4.0 BUSINESS REPLY MAIL (BRM) (S922)

Basic BRM 4.1

Annual permit fee: $150.00.

Per piece charge (in addition to the applicable First-Class Mail or Priority Mail postage (R100)): $0.60.

High-Volume BRM 4.2

Annual permit fee: $150.00.

Annual accounting fee (for advanced deposit account): $475.00.

Per piece charge (in addition to the applicable First-Class Mail or Priority Mail postage (R100)): $0.10.

Basic QBRM 4.3

Annual permit fee: $150.00.

Annual accounting fee (for advanced deposit account): $475.00.

Per piece charge (in addition to the automation First-Class Mail QBRM postage (R100.3.0)): $0.06.

High-Volume QBRM
4.4

Annual permit fee: $150.00.

Annual accounting fee (for advanced deposit account): $475.00.

Quarterly fee: $1,800.00.

Per piece charge (in addition to the automation First-Class Mail QBRM postage (R100.3.0)): $0.008.

Bulk Weight Averaged Nonletter-Size BRM
4.5

Annual permit fee: $150.00.

Annual accounting fee (for advanced deposit account): $475.00.

Monthly maintenance fee: $750.00.

Per piece charge (in addition to the applicable First-Class Mail or Priority Mail postage (R100)): $0.01.

5.0 CALLER SERVICE (D920)

Fees are charged as follows:

a. For each separation provided, per semiannual period (all post offices): $412.00.

b. For each reserved call number, per calendar year (all post offices): $32.00.

6.0 CERTIFICATE OF MAILING (S914)

Individual
6.1

Fee, in addition to postage:

a. For each piece (Form 3817): $0.90.

b. For each piece listed (Form 3877): $0.30 (minimum charge $0.90).

c. For duplicate copy of Form 3817 or Form 3877, per page: $0.90.

Bulk
6.2

For each Form 3606:

Service	Fee
For first 1,000 pieces (or fraction thereof)	$4.50
Each additional 1,000 pieces (or fraction thereof)	0.50
Duplicate copy of Form 3606	0.90

7.0 CERTIFIED MAIL (S912)

Fee, in addition to postage and other fees, per piece: $2.30.

8.0 COLLECT ON DELIVERY (COD) (S921)

Fee, in addition to postage and other fees, per piece:

Amount to be collected or insurance coverage desired, whichever is higher[1]				Fee
	$0.01	to	50.00	$4.50
	50.01	to	100.00	5.50
	100.01	to	200.00	6.50
	200.01	to	300.00	7.50
	300.01	to	400.00	8.50
	400.01	to	500.00	9.50
	500.01	to	600.00	10.50
	600.01	to	700.00	11.50
	700.01	to	800.00	12.50
	800.01	to	900.00	13.50
	900.01	to	1,000.00	14.50
Notice of nondelivery				3.00
Alteration of COD charges or designation of new addressee				3.00
Registered COD[2]				4.00

1. For Express Mail COD shipments of $100 or less, the COD fee charged is based on the amount to be collected.
2. Fee for registered COD, regardless of amount to be collected or insurance value.

9.0 DELIVERY CONFIRMATION (S918)

Fee, in addition to postage and other fees, per piece:

Type	Fee
First-Class Mail[1]	
Electronic	$0.13
Retail	0.55
Priority Mail	
Electronic	0.00
Retail	0.45
Standard Mail[2]	
Electronic	0.13
Parcel Select[1]	
Electronic	0.00
Other Package Services[1]	
Electronic	0.13
Retail	0.55

1. Available only for parcels.
2. Available only for pieces subject to the residual shape surcharge.

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10.0 DELIVERY RECORD

Fax or mail: $3.25.

Electronic: $1.30.

11.0 EXPRESS MAIL INSURANCE (S500)

Fee, in addition to postage and other fees:

a. For amount of merchandise insurance liability:

Insurance Coverage Desired	Fee
$ 0.01 to $ 100.00	$0.00
$ 100.01 to $ 5,000.00	$1.00 per $100 or fraction thereof over $100 in desired coverage
Express Mail merchandise maximum coverage: $5,000.00.	

b. Document reconstruction maximum liability: $100.00.

12.0 INSURANCE (S913)

Fee, in addition to postage and other fees, for merchandise insurance liability, per piece:

Insurance Coverage Desired	Fee	Bulk Insurance Fee
$ 0.01 to $ 50.00[1]	$1.30	$0.70
50.01 to 100.00[2]	2.20	1.40
100.01 to 200.00	3.20	2.40
200.01 to 300.00	4.20	3.40
300.01 to 400.00	5.20	4.40
400.01 to 500.00	6.20	5.40
500.01 to 600.00	7.20	6.40
600.01 to 700.00	8.20	7.40
700.01 to 800.00	9.20	8.40
800.01 to 900.00	10.20	9.40
900.01 to 1,000.00	11.20	10.40
1,000.01 to 5,000.00	11.20 plus $1.00 per $100 or fraction thereof over $1,000 in desired coverage	10.40 plus $1.00 per $100 or fraction thereof over $1,000 in desired coverage
Insured mail maximum coverage: $5,000.00.		

1. For merchandise insured for $50 or less, Form 3813 is used with an elliptical insured marking (no insured number is assigned).
2. For merchandise insured for more than $50, Form 3813-P is used with an insured number.

13.0 MAILING LIST SERVICE (A910)

List Correction 13.1

Minimum charge per list (30 items): $9.00.

For each address on list: $0.30.

5-Digit ZIP Code Sortation 13.2

For sortation of mailing lists on cards into groups labeled by 5-digit ZIP Code, per 1,000 addresses or fraction: $100.00.

Election Boards 13.3

For address changes provided to election boards and voter registration commissions, per Form 3575: $0.27.

14.0 MERCHANDISE RETURN SERVICE (S923)

Permit Fee 14.1 Annual permit fee: $150.00.

Accounting Fee 14.2 Annual accounting fee (for advance deposit account): $475.00.

15.0 METER SERVICE (P030)

Fees for on-site meter service:

a. Meter service (per employee, per visit): $35.00.

b. Meters reset/examined (per meter): $5.00.

c. Checking meters in/out of service (per meter; fee does not apply to secured postage meters that use a USPS-approved automated process for checking in and out): $4.00.

16.0 MONEY ORDERS (S020)

Fees, each:

a. Domestic money order:

Amount Desired	Fee
$ 0.01 to $ 500.00	$0.90
500.01 to 1,000.00	$1.25

b. APO/FPO money order ($0.01 to $1,000.00): $0.25.

c. Inquiry (includes the issuance of a copy of a paid money order): $3.00.

17.0 PARCEL AIRLIFT (PAL) (S930)

Fee, in addition to postage and other fees, per piece:

Weight Not More Than (pounds)	Fee
2	$0.45
3	0.85
4	1.25
30	1.70

18.0 PERMIT IMPRINT (P040)

Application fee: $150.00.

19.0 PICKUP SERVICE (D010)

Available for Express Mail, Priority Mail, and Parcel Post, per pickup: $12.50.

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20.0 POST OFFICE BOX SERVICE (D910)

For service provided:

a. Deposit per key issued: $1.00.

b. Additional keys, key duplication, or replacement, each: $4.40.

c. Post office box lock replacement, each: $11.00.

d. Box fee per semiannual (6-month) period:

Fee Group	Box Size and Fee				
	1	2	3	4	5
1	$35.00	$50.00	$100.00	$205.00	$330.00
2	29.00	45.00	80.00	170.00	315.00
3	24.00	38.00	68.00	118.00	209.00
4	19.00	34.00	63.00	110.00	175.00
5	13.00	22.00	34.00	65.00	125.00
6	12.00	18.00	33.00	60.00	97.00
7	9.00	13.00	23.00	40.00	70.00
E[1]	0.00	0.00	0.00	0.00	0.00

1. A customer ineligible for carrier delivery service may obtain one post office box at the Group E fee, subject to administrative decisions regarding customer's proximity to post office (see D910).

21.0 REGISTERED MAIL (S911)

Fees and charges are in addition to postage:

Declared Value			Fee	Handling Charge
$0.00			$7.50	—
$0.01	to	$100.00	$8.00	—
100.01	to	500.00	8.85	—
500.01	to	1,000.00	9.70	—
1,000.01	to	2,000.00	10.55	—
2,000.01	to	3,000.00	11.40	—
3,000.01	to	4,000.00	12.25	—
4,000.01	to	5,000.00	13.10	—
5,000.01	to	6,000.00	13.95	—
6,000.01	to	7,000.00	14.80	—
7,000.01	to	8,000.00	15.65	—
8,000.01	to	9,000.00	16.50	—
9,000.01	to	10,000.00	17.35	—
10,000.01	to	25,000.00	$17.35 plus 85 cents per $1,000 or fraction over $10,000	—
$25,000.01[1] to $1,000,000.00			$30.10	plus 85 cents for each $1,000 (or fraction thereof) over $25,000
1,000,000.01 to 15,000,000.00			858.85	plus 85 cents for each $1,000 (or fraction thereof) over $1,000,000
15,000,000.01 +			12,758.85	plus amount determined by the Postal Service based on weight, space, and value

Maximum coverage: $25,000.00.

1. Articles with a declared value of more than $25,000 can be registered, but compensation for loss or damage is limited to $25,000.

22.0 RESTRICTED DELIVERY (S916)

Fee, in addition to postage and other fees, per piece: $3.50.

23.0 RETURN RECEIPT (S915)

Fee, in addition to postage and other fees, per piece:

Type	Fee
Requested at time of mailing	
Original signature	$1.75
Copy of signature (electronic)	1.30
Requested after mailing	3.25

24.0 RETURN RECEIPT FOR MERCHANDISE (S917)

Fee, in addition to postage and other fees, per piece:

Type	Fee
Requested at time of mailing	$3.00

25.0 SHIPPER PAID FORWARDING (F010)

Annual accounting fee for (optional) advance deposit account: $475.00.

26.0 SIGNATURE CONFIRMATION (S919)

Available for First-Class Mail parcels, Priority Mail, and Package Services parcels.
Fee, in addition to postage and other fees, per piece:

Type	Fee
Electronic	$1.30
Retail	1.80

27.0 SPECIAL HANDLING (S930)

Fee, in addition to postage and other fees, per piece:

Weight (pounds)	Fee
Up to 10	$5.95
Over 10	8.25

An appropriate amendment to 39 CFR to reflect these changes will be published if the proposal is adopted.

Neva Watson

Neva Watson,

Attorney, Legislative.

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Federal Register

Wednesday,

January 30, 2002

Part IV

Postal Service

39 CFR Part 111

Proposed Changes to the Domestic Mail Manual To Implement Docket No. R2001–1; Proposed Rule

POSTAL SERVICE

39 CFR Part 111

Proposed Changes to the Domestic Mail Manual To Implement Docket No. R2001–1

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: On September 24, 2001, the United States Postal Service, in conformance with sections 3622 and 3623 of the Postal Reorganization Act (39 U.S.C. 101 *et seq.*), filed a request for a recommended decision by the Postal Rate Commission (PRC) on proposed rate, fee, and classification changes. The PRC designated this filing as Docket No. R2001–1 and issued a notice of filing in Order No. 1324 on September 26, 2001.

On October 25, 2001, the PRC directed the participants to consider the possibility of a settlement. Noting the extraordinary national events experienced during September, and the potential effects that changed circumstances might have on the Postal Service's request, the PRC requested all participants consider whether substantial agreement on issues and objectives might permit a beneficial resolution of the proceeding.

Counsel for the Postal Service, the Office of the Consumer Advocate, and participating intervenors discussed the issues presented by this case at conferences on October 30, and November 16, 2001, to which all intervenors and the Office of the Consumer Advocate were invited. The Postal Service also consulted with intervenors individually and in smaller groups.

On December 17, 2001, the Postal Service filed a Stipulation and Agreement for settlement of Docket No. R2001–1, together with a motion for the establishment of preliminary procedures and a schedule. On December 26, 2001, the Postal Service with concurrence of its Board of Governors agreed to changes in the terms of the Stipulation and Agreement. These changes included specifying June 30, 2002, rather than June 2, 2002, as the earliest effective date for rate, fee, and classification changes. The revision also restored the rates for intra- and inter-BMC parcel post back to the levels originally proposed in the September 24, 2001 request. Between December 26, 2001, and January 17, 2002, fifty parties adhered to the terms of the revised settlement by signing the agreement.

On January 17, 2002, the Postal Service filed a second revised Stipulation and Agreement that included several relatively minor changes in the rates proposed for the Enhanced Carrier Route (ECR) subclass of Standard Mail. In all other respects, the Stipulation and Agreement remained the same. Subsequently, six additional parties adhered to the settlement agreement. Only one participant opposed the settlement.

The PRC will hold hearings to consider the opposition to the settlement. It will then issue a recommended decision to the Postal Service Board of Governors, who will act on it. If the recommendations are approved, the Board of Governors will establish an effective date.

At this time, the Postal Service is publishing this proposed rule which provides information on the implementing standards for the rate, fee, and classification changes the Postal Service proposes to adopt if the terms of the second revised Stipulation and Agreement are consistent with the PRC's recommended decision on R2001–1 and if the Governors of the Postal Service, acting pursuant to 39 U.S.C. 3625, approve that recommended decision.

DATES: Comments must be received on or before March 1, 2002.

ADDRESSES: Send written comments to the Manager, Mail Preparation and Standards, U.S. Postal Service, 1735 North Lynn Street, Room 3025, Arlington, VA 22209–6038. Written comments may be submitted via fax to 703–292–4058. Copies of all written comments will be available for inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, at Postal Service Headquarters Library, 475 L'Enfant Plaza SW., Room 11800, Washington, DC 20260–1540.

FOR FURTHER INFORMATION CONTACT:

General contact for all subjects: Jane Stefaniak, 703–292–3548.

For Express Mail and Priority Mail: Karen Magazino, 703–292–3644.

For First-Class Mail and Standard Mail: Anne Emmerth, 703–292–3641.

For Periodicals: Joel Walker, 703–292–3652.

For Package Services: OB Akinwole, 703–292–3643.

For Special Services: Pat Bennett, 703–292–3639.

SUPPLEMENTARY INFORMATION: The Postal Service's request in Docket No. R2001–1 and as amended in the second revised Stipulation and Agreement filed on January 17, 2002, includes classification and rate structure changes, and increases in most existing rate and fee categories. This proposed rule contains the Domestic Mail Manual (DMM) standards the Postal Service would adopt to implement R2001–1. Part A of this document summarizes the proposed revisions to the DMM by class of mail and special service category. Part B summarizes the proposed changes by DMM module and section. The text of the proposed changes to the DMM standards appear after Part B.

Comments are solicited on the proposed implementing of DMM standards that appear in this proposed rule. As information, the DMM language in this proposed rule incorporates all revisions to the DMM from previously published **Federal Register** final rules that have taken effect or will take effect on or before the implementation of the rates resulting from the R2001–1 rate case. As a result, the numbering and the language of the DMM sections in this proposed rule have been synchronized with these final rules and may not match the numbering and language in the current DMM 56.

A 6-month phase-in period is proposed for mailer implementation of the requirements for formatting card-rate First-Class Mail; for mail preparation and tray labeling of nonmachinable First-Class Mail and Standard Mail; and, for the tray labeling changes affecting Standard Mail Enhanced Carrier Route high density and saturation rate letters. Mailers are asked to comment both on the language of these proposed requirements and their ability to meet the proposed 6-month time frame.

Although proposed rates, rate categories, and rate structures are included in this proposed rule, they are outside the scope of this rulemaking process because they are still under review by the Postal Rate Commission. Accordingly, comments on whether the current basic automation rate for letter-size First-Class Mail and Standard Mail should be split into an automated area distribution center (AADC) rate and a mixed AADC rate, or offered at different rates, would not be appropriate. However, comments suggesting changes to the way the Postal Service would implement standards for the proposed AADC and mixed AADC rates would be appropriate.

Part A—Summary of Changes by Class of Mail

The following information details the R2001–1 proposed changes organized by class of mail and special service category. This information is intended as an overview only and should not be viewed as defining every proposed DMM revision.

1. Express Mail

a. Express Mail Rate Highlights

Overall, Express Mail rates would increase an average of 9.4%. The most significant change to the Express Mail rate structure would be to the flat-rate envelope. Currently, the rate for the Express Mail flat-rate envelope is the same as the applicable 2-pound rate. The proposed rate for the flat-rate envelope would be the ½-pound rate, which is the lowest available rate for each Express Mail service offering. The rate for the flat-rate envelope would decrease for Post Office to Addressee service from $16.25 to $13.65, but the size of the envelope would remain the same.

The indemnity included in the price of Express Mail would be reduced from $500 to $100 for both merchandise and document reconstruction. This adjustment would more closely align with general industry practice. The fee for every $100 increment of additional merchandise insurance desired above the standard $100 and up to $5,000 would be $1.00.

b. Express Mail Rate Structure

There would be no changes to the rate structure of Express Mail.

c. Express Mail Preparation Changes

There would be no changes to mail preparation requirements for Express Mail.

2. Priority Mail

a. Priority Mail Rate Highlights

Overall, Priority Mail rates would increase an average of 13.5%. Currently, the rate for the Priority Mail flat-rate envelope is the same as the 2-pound rate. The rate for the flat-rate envelope would be tied to the 1-pound rate because of the proposed rezoning of all rates from 2 to 5 pounds. The 1-pound rate would increase from $3.50 to $3.85 and remain an unzoned rate. The rate for the flat-rate envelope would decrease from the current $3.95 to the proposed rate of $3.85. The Priority Mail flat-rate envelope would continue to be the EP–14F envelope available from the Postal Service.

b. Priority Mail Rate Structure

Currently, Priority Mail rates are not zoned for pieces weighing 2 through 5 pounds, but they are zoned for pieces weighing more than 5 pounds. The weight increments from more than 1 pound and up to 5 pounds would be zoned to more accurately reflect actual costs to the Postal Service for transportation and handling.

c. Priority Mail Preparation Changes

There would be no changes to mail preparation requirements for Priority Mail.

3. First-Class Mail

a. First-Class Mail Rate Highlights

Overall, First-Class Mail rates would increase an average of 8.2%. The single-piece 1-ounce First-Class Mail rate would increase from $0.34 to $0.37, and the single-piece card rate from $0.21 to $0.23. The additional ounce rate for single-piece First-Class Mail would remain at $0.23. There would be a lower additional ounce rate for Presorted First-Class Mail.

Business mailers would see larger automation presort discounts. The carrier route automation discount and the nonautomation presort discount would remain at the current levels. The proposed increase in automation discounts and the proposed half-cent reduction in the additional-ounce rate would result in more attractive incentives, especially for large-volume First-Class Mail users who presort and mail heavier pieces.

b. First-Class Mail Rate Structure and Mail Preparation Changes

(1) Lower Additional Ounce for Presorted and Automation Rates

Currently, there is a single additional ounce rate for all pieces mailed at First-Class Mail rates. For presorted and automation pieces weighing more than 2 ounces, a heavy piece discount is deducted.

The Postal Service is proposing a lower additional ounce rate for First-Class Mail sent at Presorted and automation rates (including automation carrier route). Pieces mailed at single-piece rates would pay $0.23 for each additional ounce; pieces mailed at any discount rate would pay $0.225 for each additional ounce. This change would affect only postage rates; there would be no proposed eligibility or mail preparation changes.

(2) Automation Basic Rate Split Into Two New Rates

For automation cards and letters, the current rate structure contains a 5-digit, 3-digit, and basic rate. The proposed rate structure would split the basic rate into an automated area distribution center (AADC) rate (for all pieces in an AADC tray) and a mixed AADC rate (for all pieces in a mixed AADC tray). The AADC rate would also apply to pieces in a less-than-full origin 3-digit tray. In addition, the 3-digit sort level, which is currently required, would become optional. The first required sort level would be the AADC sort.

For automation flats, the current rate structure contains a 5-digit, 3-digit, and basic rate. The proposed rate structure would split the basic rate into an area distribution center (ADC) rate (for all pieces in an ADC package or tray) and a mixed ADC rate (for all pieces in a mixed ADC package or tray). The ADC rate also would apply to pieces in a less-than-full origin 3-digit tray. There are no proposed sortation changes for automation flats. The 5-digit sort level would still be optional; all other sort levels would be required.

(3) Format Changes for Card Rate Pieces

Formatting standards for pieces mailed at card rates are currently contained in the Domestic Mail Classification Schedule (DMCS). Specifically, the language includes prohibitions against perforations or tearing guides and restricts the kind and amount of nonaddress information (e.g., account information or billing codes) that can appear on the face of the card. Many utility companies and small businesses use postcards to send bills to customers. The Postal Service has received requests from these mailers to loosen and clarify these standards. However, because the language was contained in the DMCS, no DMM changes could be made without first revising the DMCS.

In Docket No. R2001–1, the Postal Service proposed to remove section 222.2, Restrictions, from the DMCS. Subsequently, DMM C100.2.0, which contains standards for physical construction and formatting of First-Class Mail cards, would be revised to accommodate the proposed DMCS change. The proposed DMM standards would offer more options to mailers for placing billing information on the face of the card.

Specifically, the new standards require address information to be placed within a certain space for cards claimed at the Presorted or automation card rates. Perforated cards would be required to maintain a minimum ratio of 50:50 (stock to perforations).

The Postal Service is proposing a 6-month phase-in period for mailers to comply with these format changes (see new section C100.2.8). After the phase-in period, Presorted and automation rate cards that do not meet the standards in C100.2.0 would not be eligible for card rates.

(4) Nonmachinable Surcharge

The definition of the current nonstandard surcharge would be expanded to include any physical

criteria that could make a mailpiece nonmachinable. Pieces that are nonmachinable are excluded from automated processing and must be handled manually. Nonmachinable pieces also may impede mail flow or damage the mail or mail processing equipment. Manual pieces are considerably more costly to process than machinable letters.

The proposed criteria for the nonmachinable surcharge for letter-size mail would be listed in DMM C050.2.2. The nonmachinable surcharge would apply to single-piece and Presorted rate letters that weigh 1 ounce or less and meet one or more of the criteria in that section.

The nonmachinable surcharge also would apply to single-piece, Presorted, and automation rate nonletters (flats and parcels) that weigh 1 ounce or less if any one of the following applies:

(a) The piece is greater than ¼-inch thick.

(b) The length is more than 11½ inches or the height is more than 6⅛ inches.

(c) The aspect ratio (length divided by height) is less than 1.3 or more than 2.5.

The nonmachinable surcharge would be $0.12 for single-piece rate pieces and $0.055 for Presorted and automation rate pieces.

The nonmachinable criteria in C050.2.2 would not apply to pieces mailed at any card rate.

The nonmachinable surcharge also would apply to letter-size pieces (including pieces mailed at the card rate) for which the mailer has chosen the manual only (''do not automate'') option.

This proposed change is consistent with the proposed nonmachinable surcharge for Standard Mail.

In conjunction with this change, trays of machinable and nonmachinable letters would be prepared and labeled differently. The preparation for machinable letters would be similar to the current preparation for upgradable letters (including the optional 5-digit sort level); the preparation for nonmachinable pieces would be similar to the current package-based preparation for Presorted letters. The current weight limit for upgradable letters (2.5 ounces) would be replaced with a weight limit of 3.3 ounces for machinable letters. Letters heavier than 3.3 ounces that are less than ¼-inch thick would use the nonmachinable preparation and labeling but would not pay the surcharge (because it would apply only to pieces that weigh 1 ounce or less).

On tray labels, the current ''NON BC'' designation would be replaced with one of two designations: ''MACH'' for machinable pieces or ''MANUAL'' for nonmachinable pieces. Although Presorted cards would not be subject to the surcharge, mailers would be required to show on the tray label whether or not those pieces are machinable (for instance, a double card that is not tabbed is nonmachinable). The ''MANUAL'' designation would help the Postal Service direct the trays of mail to the appropriate mail processing operation. Mailers who choose the ''do not automate'' option would show ''MANUAL'' on Line 2 of the tray label, as currently required.

Software vendors should note that, as proposed, machinable and nonmachinable (manual) letters will use different content identifier numbers (CINs).

There are no proposed preparation or labeling changes for Presorted flats or parcels subject to the surcharge.

Mail preparation instructions for Presorted letter-size pieces subject to the nonmachinable surcharge would be in DMM M130. Preparation instructions for automation flats subject to the nonmachinable surcharge would not change (see current DMM M820).

The nonmachinable surcharge would be assessed on any piece mailed out as a different class of mail and returned as First-Class Mail (for instance, Standard Mail endorsed ''Return Service Requested'') if the piece weighs 1 ounce or less and meets the criteria for nonmachinability in C050.2.2. Pieces returned at First-Class Mail card rates would not be subject to the nonmachinable surcharge.

The surcharge would take effect when the new rates are implemented, however, the Postal Service is proposing a 6-month phase-in period for these mail preparation and tray labeling changes.

(5) Delivery Confirmation and Signature Confirmation for First-Class Mail Parcels

The Postal Service would add two new special service options for First-Class Mail parcels: Delivery Confirmation and Signature Confirmation. Both services would be available in manual (retail) and electronic options. The fees for Delivery Confirmation would be $0.55 (retail) and $0.13 (electronic). The fees for Signature Confirmation would be $1.80 (retail) and $1.30 (electronic).

For the purposes of adding Delivery Confirmation and Signature Confirmation, a First-Class Mail parcel is defined as any piece:

(a) That has an address side with enough surface area to fit the delivery address, return address, postage, markings and endorsements, and special service label; and

(b) Is in a box or, if not in a box, is greater than ¾-inch thick at its thickest point.

This definition would provide mailers with different packaging options for their First-Class Mail parcels.

(6) Containerization and Labeling

For letter-size pieces, the definition of a full tray would change from the current threshold of 75% to 100%, with a range between 75% and 100%. The recommended default for presort software would be 85%. In addition, after the minimum volume for rate eligibility is reached (i.e., 150 pieces for a 3-digit area), overflow would be optional for all sort levels of letter trays. Also, mailers would be required to use as few trays as possible. Under current standards, a mailer could prepare one full 1-foot tray plus one less-than-full 1-foot tray; new standards would result in the preparation of a single less-than-full 2-foot tray.

On all First-Class Mail letter trays, ''LTRS'' would change to ''LTR'' and ''CR–RTS'' would change to ''CR–RT.'' This change would be necessary to allow more room for other information on the tray label.

(7) Documentation

Mailers would no longer be required to present a hard copy Form 3553, Coding Accuracy Support System (CASS) Summary Report, with their mailings. Instead, mailers or mailer agents would be required to keep this documentation on file for 1 year from the date of mailing and make it available to the Postal Service on 24-hour notice.

Software vendors and mailers should note that changes are proposed for manifest keyline rate codes (P910.3.0) and Multi-line Optical Character Reader (MLOCR) rate markings (P960.3.0) to reflect the new First-Class Mail rates.

4. Periodicals

a. Periodicals Rate Highlights

The overall proposed average increase for Periodicals would be 10%. Outside-County postage would increase on average 10.4%, while In-County postage would increase on average 1.7%. Automation discounts would increase at the 5-digit (from $0.025 to $0.03), 3-digit (from $0.035 to $0.041), and basic (from $0.042 to $0.048) presort levels. The destination delivery unit (DDU) discount would increase (from $0.017 to $0.018), while the destination sectional center facility (DSCF) discount would remain at $0.008. The proposed new

destination area distribution center (DADC) discount would be $0.002.

Original entry and additional entry application fees are proposed to increase from $350 to $375 and from $50 to $60, respectively, while the fees for reentry and news agent registry would remain at $40.

b. Periodicals Rate Structure and Mail Preparation Changes

(1) Proposed Changes

Proposed changes to the rate design for Periodicals are as follows:

(a) New DADC discounts for Outside-County and Science-of-Agriculture Periodicals that would be deducted from the pound and addressed per piece rates.

(b) A change that would limit destination rates and discounts to mail entered at destination facilities (DDU, DSCF, and DADC).

(c) A new per piece discount for each addressed nonletter-size piece (flat-size and irregular parcel) prepared in packages on pallets that contain at least 250 pounds of mail (except overflow pallets). This discount would apply to all pallet levels. The discount would not apply to pieces in sacks on pallets or in trays on pallets.

(d) In addition to the per piece pallet discount, a new destination entry per piece pallet discount would apply to each addressed piece of nonletter-size mail (flats and irregular parcels) prepared in packages on any destination entry pallet of at least 250 pounds of mail (except overflow pallets). The discount is not available for pieces in sacks or trays on pallets.

In conjunction with the nommachinable surcharge, it is proposed that any Periodical returned to the sender at First-Class Mail rates is subject to the nonmachinable surcharge if the piece weighs 1 ounce or less and meets any one of the nonmachinable criteria in C050.2.2.

(2) Periodicals Ride-Along

The Ride-Along experiment would become a permanent classification. There would be no proposed changes in the current standards for eligibility. However, publishers would no longer be required to complete a data collection questionnaire, provide a sample in addition to the marked copy, or submit an additional copy of Form 3541–X (postage statement). Form 3541–X would be discontinued and mailers would use Form 3541. The standards for Ride-Along would be relocated to new DMM E260. The Ride-Along rate would increase from $0.10 to $0.124 per piece.

(3) Containerization

For letter-size pieces, the definition of a full tray would change from the current threshold of 75% to 100%, with a range between 75% and 100%. The recommended default for presort software would be 85%. In addition, after the minimum volume for rate eligibility is reached (i.e., 150 pieces for a 3-digit area), overflow would be optional for all sort levels of letter trays. Also, mailers would be required to use as few trays as possible. Under current standards, a mailer could prepare one full 1-foot tray plus one less-than-full 1-foot tray; new standards would result in the preparation of a single less-than-full 2-foot tray.

In addition, the measurement for the minimum volume of trays on pallets would be measured in linear feet, not by the number of layers of trays.

(4) Documentation

Mailers would no longer be required to present a hard copy Form 3553, Coding Accuracy Support System (CASS) Summary Report, with their mailings. Instead, mailers or mailer agents would be required to keep this documentation on file for 1 year from the date of mailing and make it available to the Postal Service on 24-hour notice.

5. Standard Mail

a. Standard Mail Rate Highlights

Overall, Standard Mail rates would increase an average of 7.3%. On average, within each subclass, rates for flat-size mail would increase more than rates for letter-size mail. Regular rates would increase an average of 8% and nonprofit rates would increase an average of 6.7%. As proposed, greater destination entry discounts would provide an incentive for mailers to use their own or third-party transportation to move Standard Mail closer to the point of delivery.

b. Standard Mail Rate Structure and Mail Preparation Changes

(1) Automation Basic Letter Rate Split Into Two New Rates

For automation letter-size pieces, the current rate structure contains a 5-digit, 3-digit, and basic rate. The proposed rate structure would split the basic rate into an AADC rate (for all pieces in an AADC tray) and a mixed AADC rate (for all pieces in a mixed AADC tray). The AADC rate also would apply to all pieces in any less-than-full origin or entry 3-digit or 3-digit scheme tray. There are no proposed sortation changes for automation letter-size pieces. The 5-digit sort level would still be optional; all other sort levels would be required.

Unlike in First-Class Mail, where the proposed ADC and mixed ADC rates would apply to automation flats, there are no proposed changes to the rate structure for Standard Mail automation flats.

(2) Nonmachinable Surcharge

A nonmachinable surcharge is proposed for Standard Mail letter-size pieces; the definition would include any physical criteria that could make a mailpiece nonmachinable. Pieces that are nonmachinable are excluded from automated processing and must be handled manually. Nonmachinable pieces also may impede mail flow or damage the mail or mail processing equipment. Manual letters are considerably more costly to process than machinable letters.

The proposed criteria for nonmachinability for letter-size pieces are in DMM C050.2.2. The nonmachinable surcharge would apply to Presorted rate letter-size pieces (including cards) that weigh 3.3 ounces or less and meet one or more of the criteria in that section.

Unlike First-Class Mail, where the nonmachinable surcharge would also apply to flats, the Postal Service is not proposing to add a nonmachinable surcharge to Standard Mail flats. The Standard Mail rate structure includes separate rates for letters and nonletters and factors in the extra costs of handling nonmachinable nonletters.

The nonmachinable surcharge would be $0.04 per piece for regular rate pieces and $0.02 per piece for nonprofit rate pieces.

The nonmachinable surcharge also would apply to Presorted rate letter-size pieces for which the mailer has chosen the ''manual only'' (do not automate) option.

This proposed change is consistent with the proposed nonmachinable surcharge for First-Class Mail.

In conjunction with this change, trays of machinable and nonmachinable letters would be prepared and labeled differently. The preparation for machinable letters would mirror the current preparation for upgradable letters (including the optional 5-digit sort level). The preparation for nonmachinable pieces would mirror the current package-based preparation for Presorted letters. The current weight limit for upgradable letters (2.5 ounces) would be replaced with a weight limit of 3.3 ounces for machinable letters.

On tray labels, the current ''NON BC'' designation would be replaced with one of two designations: ''MACH'' for machinable pieces or ''MANUAL'' for nonmachinable pieces. The ''MANUAL''

designation would help the Postal Service direct the trays of mail to the appropriate mail processing operation. Mailers who choose the ''do not automate'' option would show ''MANUAL'' on Line 2 of the tray label, as currently required.

Software vendors should note that, as proposed, machinable and nonmachinable (manual) letters will use different content identifier numbers (CINs).

Mail preparation instructions for Standard Mail pieces subject to the nonmachinable surcharge are found in DMM M610.

In a mailing of nonmachinable letter-size pieces, residual pieces sent at First-Class Mail rates would be subject to the First-Class Mail nonmachinable surcharge only if the pieces weigh 1 ounce or less. Heavier pieces would not be subject to the First-Class Mail nonmachinable surcharge, even though those same pieces would have been subject to the Standard Mail nonmachinable surcharge if they had remained in the Standard Mail mailing. Additionally, residual pieces that are mailed at First-Class Mail card rates would not be subject to the nonmachinable surcharge.

Standard Mail pieces that are returned as First-Class Mail (for instance, an undeliverable piece endorsed ''Return Service Requested'') would be charged the nonmachinable surcharge if the piece weighs 1 ounce or less and meets the criteria for nonmachinability in C050.2.2. The nonmachinable surcharge also would be figured into the calculation for the weighted fee for pieces that weigh 1 ounce or less. The nonmachinable surcharge would not be charged on pieces returned at First-Class Mail card rates.

The surcharge would take effect when the new rates are implemented, however, the Postal Service is proposing a 6-month phase-in period for these mail preparation and tray labeling changes.

(3) Heavier Letters Are Eligible for Automation Rates

The maximum weight limit for automation letters would increase from 3.3 ounces to 3.5 ounces (inclusive). These pieces would be charged postage equal to the automation piece/pound rate for that piece and receive a discount equal to the automation nonletter piece rate (3.3 ounces or less) minus the corresponding automation letter piece rate (3.3 ounces or less) for the appropriate sort level. This change applies to regular and nonprofit automation letters.

For instance, each heavy automation letter sorted to a 5-digit tray would receive a discount equal to the 3/5 automation nonletter rate minus the 5-digit automation letter rate.

As an example, using the proposed postage rates, a regular automation letter weighing 3.4 ounces that is sorted in a 3-digit tray for DSCF entry would be charged:

Nonletter piece rate (more than 3.3 ounces), 3/5 rate	$0.115
Plus	
Nonletter pound rate (more than 3.3 ounces), 3/5 rate, DSCF entry (3.4 ounces divided by 16 ounces equals 0.2125 pounds, multiplied by $0.583 per pound) (rounding off to four decimal places)	0.1239
Equals	0.2389
Minus a discount that equals the 3/5 nonletter piece rate (3.3 ounces or less) for DSCF entry minus the 3-digit letter piece rate (3.3 ounces or less) for DSCF entry (0.235 minus 0.177)	−.058
Equals postage per piece	0.1809

This proposed change would allow mailers to avoid the substantial rate increase for letter-shaped pieces exceeding 3.3 ounces. Under the current rate schedule, once an automation letter exceeds the 3.3-ounce maximum weight, the piece become subject to the piece/pound rates.

There are no proposed mail preparation changes that accompany this change; these heavy letters would be required to meet the current standards for heavy automation letters in DMM C810.7.5 and would use the existing mail preparation sequence and labeling for automation letters. Mailers who choose to take this discount for heavy automation letters would be required to use a new postage statement to be designed for this purpose.

Current standards for mixed rate mailings would not change. Pieces from a heavy letter mailing that cannot be barcoded would be mailed at single-piece First-Class Mail rates or prepared as a Presorted Standard Mail letter mailing with postage paid at the piece/pound rate (for pieces over 3.3 ounces). Like today, these residual pieces would not need to meet a separate 200-piece or 50-pound minimum (see DMM E620.1.2).

(4) Barcode Requirement for ECR Letter-Size Pieces

Enhanced Carrier Route (ECR) letter-size pieces mailed at high-density and saturation per piece rates would be required to meet the physical standards for automation-compatible mail in DMM C810 and would be required to have a delivery point barcode. Pieces using simplified address would not be required to have a delivery point barcode, and therefore, would not need to meet the physical standards for automation-compatible mail.

This change would apply to both ECR and Nonprofit ECR.

Requiring high density and saturation letters to be barcoded would give the Postal Service operational flexibility and would eliminate the need to barcode these pieces before delivery point sequencing (DPS). The Postal Service updates its DPS sort plans daily. Therefore, any changes in route assignments between carriers are captured in the DPS process daily; mailers are permitted to use carrier route information that could be up to 90 days old.

The proposed automation-compatible requirement corresponds to the requirement for a delivery point barcode—for the Postal Service to read the barcode, the piece must be compatible with automated mail sorting equipment. These requirements would not apply to detached address labels (DALs) that accompany flat-size pieces or irregular parcels. Even though the DAL itself is letter-sized, technically it is the label for the larger piece.

Pieces that do not meet the physical standards in C810 or that do not contain a delivery point barcode would be subject to the corresponding ECR high density or saturation nonletter rate. Pieces that are letter-size but claimed at the nonletter rates would be marked, sorted, and trayed as letters. Mailers

also would have the option to pay the ECR basic letter rate (for which barcodes are not required).

There are no proposed changes to the sequencing requirements, markings, or sortation for ECR pieces. Tray labels would change to reflect whether the pieces in the tray are barcoded (''BC''), not barcoded but machinable (''MACH''), or nonmachinable, regardless of whether the pieces are barcoded (''MANUAL'' or ''MAN''). These designations help the Postal Service direct the trays of mail to the appropriate mail processing operation. Mailers would be required to use barcoded tray labels.

Pieces mailed with a simplified address format do not contain the necessary address elements to generate a delivery point barcode for that address. To qualify for the high density or saturation letter rates, those pieces would not have to bear a delivery point barcode, would not have to be automation-compatible, and would be labeled ''MAN'' (even if the pieces are automation-compatible).

Pieces mailed with an exceptional or occupant address format (A040) do contain the enough address elements to generate a delivery point barcode, and therefore, must be automation-compatible and must have a delivery point barcode in order to claim the high density or saturation letter rates.

Software vendors should note that, as proposed, within each of the three processing categories, the same content identifier number (CIN) would be used for all direct carrier route trays (full trays of mail for a single carrier route).

Mailers would not be permitted to combine barcoded and nonbarcoded pieces into the same mailing. As an example, a mailer has 200 pieces to a single carrier route but was able to barcode only 175 of those pieces. The barcoded pieces would be placed in a direct carrier route tray and would qualify for the saturation letter rate. The remaining 25 nonbarcoded pieces would qualify for the saturation nonletter rate (saturation because the density requirement has been met, nonletter because the pieces do not meet the new barcode requirement) but cannot be placed in the direct carrier route tray. Instead, the nonbarcoded pieces would be packaged in walk sequence and placed in a 5-digit carrier routes tray or a 3-digit carrier routes tray with other carrier route packages of nonbarcoded mail. It is possible that, for a single 5-digit destination, a mailer could create two 5-digit carrier routes trays: one that contains packages of barcoded mail, and one that contains packages of nonbarcoded mail.

The new requirements for high density and saturation letters would take effect when the new rates are implemented; however, the Postal Service is proposing a 6-month phase-in period for the tray label changes.

A minor change would be made to the wording in the DMM for how to qualify for high density rates. Currently, there are two ways to meet the density requirement: there must be at least 125 pieces for a single carrier route or, if there are fewer than 125 possible deliveries on the route, a piece must be addressed to every delivery on the route. To qualify for saturation rates, pieces must be addressed to at least 90% of the active residential deliveries or at least 75% of the total active deliveries. If a customer is meeting the high density standard by addressing a piece to each possible delivery (100%), then they also would qualify for saturation rates under either the 90% standard or the 75% standard, and would of course claim the lower saturation rate. Therefore, because no mailer would ever choose to qualify for the high density rate via the 100% standard, it would be eliminated.

(5) Heavier ECR Saturation and High Density Letters Are Eligible for Letter Rates

The maximum weight limit for automation-compatible ECR letters would increase from 3.3 ounces to 3.5 ounces (inclusive). These pieces would be charged postage equal to the nonletter piece/pound rate for that piece and receive a discount equal to the nonletter piece rate (3.3 ounces or less) minus the corresponding letter piece rate (3.3 ounces or less) for the appropriate sort level. This proposed change would apply to regular and nonprofit ECR saturation and high density letters.

For regular ECR, the discount would be $0.005 per piece for high density letters and $0.008 per piece for saturation letters. For nonprofit ECR, the discount would be $0.008 per piece for high density letters and $0.009 per piece for saturation letters.

This change also would apply to pieces mailed at the ECR automation basic rate, but the calculation is slightly different because there are no corresponding nonletter rates with which to perform the calculation. These pieces would be charged postage equal to the basic nonletter piece/pound rate and receive a discount equal to the basic letter rate minus the automation basic letter rate. For regular ECR, the discount would be $0.023 per piece. For nonprofit ECR, the discount would be $0.015 per piece.

In this proposal, all pieces mailed at high density and saturation letter rates will be automation-compatible; therefore, this change is consistent with the proposed change for regular Standard Mail heavy automation letters. This change would not apply to letter-size pieces that are mailed at the nonletter rates (because they are not automation compatible or do not have a barcode).

This change would not apply to pieces mailed at the ECR basic letter rate (because the letter and nonletter rates are the same, there would be no discount to subtract) or to pieces mailed at the ECR automation basic letter rate (because there are no corresponding nonletter rates with which to perform the rate calculation) (see R600.2.0 and R600.4.0).

As an example, using the proposed postage rates, a high density letter weighing 3.4 ounces that is prepared for DSCF entry would be charged:

Nonletter piece rate (more than 3.3 ounces), high density	$0.043
Plus	
Nonletter pound rate (more than 3.3 ounces), high density, DSCF entry (3.4 ounces divided by 16 ounces equals 0.2125 pounds, multiplied by $0.485 per pound) (rounded off to four decimal places)	0.1031
Equals	0.1461
Minus a discount that equals the high density nonletter piece rate (3.3 ounces or less) for DSCF entry minus the high density letter piece rate (3.3 ounces or less) for DSCF entry (0.143 minus 0.138)	−.005
Equals postage per piece	$0.1411

This proposed change would allow mailers to avoid the substantial rate increase for letter-shaped pieces exceeding 3.3 ounces. Under the current rate schedule, once an ECR letter exceeds the 3.3-ounce maximum weight, the pieces become subject to the piece/pound rates.

There are no proposed mail preparation changes that accompany this change; these heavy letters would be required to meet the current standards for heavy automation letters in DMM C810.7.5 and would use the existing mail preparation sequence and labeling for ECR letters. Mailers who choose to take this discount for heavy letters would be required to use a new postage statement to be designed for this purpose.

(6) Containerization and Labeling

For letter-size pieces, the definition of a full tray would change from the current threshold of 75% to 100%, with a range between 75% and 100%. The recommended default for presort software would be 85%. In addition, after the minimum volume for rate eligibility is reached (i.e., 150 pieces for a 3-digit area), overflow would be optional for all sort levels of letter trays. Also, mailers would be required to use as few trays as possible: Under current standards, a mailer could prepare one full 1-foot tray plus one less-than-full 1-foot tray; new standards would result in the preparation of a single less-than-full 2-foot tray.

In addition, the minimum volume of trays on pallets would be measured in linear feet, not by the number of layers of trays.

On all Standard Mail letter trays, ''LTRS'' would change to ''LTR'' and ''CR–RTS'' would change to ''CR–RT.'' This change would be necessary to allow more room for other information on the tray label.

(7) Documentation

Mailers would no longer be required to present a hard copy Form 3553, Coding Accuracy Support System (CASS) Summary Report, with their mailings. Instead, mailers or mailer agents would be required to keep this documentation on file for 1 year from the date of mailing and make it available to the Postal Service on 24-hour notice.

Software vendors and mailers should note that changes are proposed for manifest keyline rate codes (P910.3.0) and Multi-line Optical Character Reader (MLOCR) rate markings (P960.3.0) to reflect the new Standard Mail rates.

6. Package Services

There are four subclasses of Package Services: Parcel Post, Bound Printed Matter, Media Mail, and Library Mail. Each subclass is addressed separately in items 7 through 10.

7. Parcel Post

a. Parcel Post Rate Highlights

Parcel Post rates would increase an average of 10%. The nonmachinable surcharge for Inter-BMC Parcel Post would increase from $2.00 to $2.75 per parcel. The Intra-BMC and DBMC nonmachinable surcharges would remain at their current levels: $1.35 for Intra-BMC parcels and $1.45 for DBMC parcels. The Parcel Post Origin BMC Presort and BMC Presort discounts would increase from $0.90 to $1.17 and $0.23 to $0.28 per piece, respectively. The barcoded discount for qualifying Parcel Post (including Parcel Select) machinable parcels would remain at $0.03 per piece.

b. Parcel Post Rate Structure

Two changes are proposed. First, Parcel Select pieces would be eligible for no-fee electronic Delivery Confirmation. The other change would create a DSCF rate for nonmachinable parcels sorted to 3-digit ZIP Code prefixes and entered at destination SCFs. The pieces would be charged a surcharge of $1.09 per parcel in addition to the applicable DSCF rate.

c. Parcel Post Mail Preparation Changes

Except for a new 3-digit nonmachinable parcel preparation option added for DSCF rate mail, there would be no other changes to the preparation requirements for Parcel Post and Parcel Select.

8. Bound Printed Matter

a. Bound Printed Matter Rate Highlights

The Bound Printed Matter (BPM) rates would increase an average of 9.1%. Destination entry mailings would be eligible for discounts that encourage the deposit of mail at the destination BMC, SCF, or delivery unit. There are two major changes to BPM rates: Separate rates for BPM flats and parcels, and a new POSTNET barcoded discount for single-piece rate and presorted rate BPM flats. The parcel barcoded discount for presorted rate BPM single-piece and presorted rate machinable parcels would remain at $0.03 per piece.

b. Bound Printed Matter Rate Structure

Rates for flat-size BPM would be lower than the rates for BPM parcels in all three rate categories (single-piece, presorted, and carrier route) and in the three available destination entry rates (DDU, DSCF, and DBMC). A $0.03 discount would be available for single-piece and presorted rate BPM flats prepared with a POSTNET barcode. To qualify for the barcoded discount, BPM flats would be required to meet the standards in DMM C820 for flat sorting machine (FSM) 881 processing.

c. Bound Printed Matter Mail Preparation Changes

BPM barcoded flats would be prepared using the standards in DMM M820.

9. Media Mail

a. Media Mail Rate Highlights

Media Mail rates would increase an average of 4%.

b. Media Mail Rate Structure

There would be one fundamental change to the Media Mail rate structure. The 5-digit rate would be retained, but the BMC rate would be renamed the basic rate.

c. Media Mail Preparation Changes

There would be two changes to the preparation requirements for Media Mail. The BMC sort level would be renamed the basic sort level. This change would allow the Postal Service to adjust the presort requirements for Media Mail to reflect current processing. Machinable parcels would continue to be presorted to BMCs using the new basic rate level.

The second change would eliminate the requirement for separate minimum volumes for each presort level and would reduce the minimum volume requirement for a mailing from 500 to 300 pieces. To qualify for presorted Media Mail, mailers would be required to have a minimum of 300 properly prepared and presorted pieces. Pieces in the mailing that meet 5-digit rate requirements would be eligible for the 5-digit rate. The remaining pieces in the mailing would be eligible for the basic rate.

10. Library Mail

a. Library Mail Rate Highlights

Library Mail rates would increase an average of 3.3%.

b. Library Mail Rate Structure

There would be one fundamental change to the Library Mail structure. The 5-digit rate would be retained, but the BMC rate would be renamed the basic rate.

c. Library Mail Preparation Changes

There would be two changes to the preparation requirements for Library

Mail. The BMC sort level would be renamed the basic sort level. This change would allow the Postal Service to adjust the presort requirements for Library Mail to reflect current processing. Machinable parcels would continue to be presorted to BMCs using the new basic rate level.

The second change would eliminate the requirement for separate minimum volumes for each presort level and would reduce the minimum volume requirement for a mailing from 500 to 300 pieces. To qualify for presorted Library Mail, mailers would be required to have a minimum of 300 properly prepared and presorted pieces. Pieces in the mailing that meet the 5-digit rate requirements would be eligible for the 5-digit rate. The remaining pieces in the mailing would be eligible for the basic rate.

11. Special Services and Other Services

a. Special Services Highlights

(1) Bulk Parcel Return Service (DMM S924)

The annual accounting fee for bulk parcel return service (BPRS) would increase from $375 to $475. The annual permit fee would increase from $125 to $150 and the per piece charge would increase from $1.62 to $1.80. See DMM R900.3.0.

(2) Business Reply Mail (DMM S922)

The per piece charge for high volume Qualified Business Reply Mail (QBRM) with the optional quarterly fee would decrease from $0.01 to $0.008. The QBRM quarterly fee of $1,800 for that category would remain the same. The basic QBRM per piece charge for the category without the optional quarterly fee would increase from $0.05 to $0.06. The annual permit fee for all business reply mail (BRM) would increase from $125 to $150. The monthly fee for bulk weight averaged nonletter-size BRM would increase from $600 to $750, while the per piece charge would remain the same. The annual accounting fee for advanced deposit accounts would increase from $375 to $475. The regular BRM per piece charge without an annual accounting fee would increase from $0.35 to $0.60 per piece. See DMM R900.4.0.

(3) Certificate of Mailing (DMM S914)

Certificate of mailing fees would increase. For individual pieces, the original certificate would increase from $0.75 to $0.90, the firm mailing book (Form 3877) would increase from $0.25 to $0.30 for each piece listed, and the charge for a duplicate copy would increase from $0.75 to $0.90.

For bulk pieces (Form 3606), fees for the first 1,000 pieces or fraction thereof would increase from $3.50 to $4.50. Each additional 1,000 pieces or fraction thereof would increase from $0.40 to $0.50, and the charge for a duplicate copy would increase from $0.75 to $0.90. Additional mailpieces listed on Form 3877 and having postage paid with a permit imprint would be permitted to pay the certificate of mailing fee using a permit imprint account. See DMM R900.6.0.

(4) Certified Mail (DMM S912)

The certified mail fee would increase from $2.10 to $2.30. A new service enhancement would be introduced to allow mailers to access delivery information for certified mail over the Internet at www.usps.com by providing the certified article number. See DMM R900.7.0.

(5) Collect on Delivery (DMM S921)

There would be no change to the current collect on delivery (COD) fees. See DMM R900.8.0.

(6) Delivery Confirmation (DMM S918)

Retail (manual) and electronic Delivery Confirmation options would be extended to First-Class Mail parcels. For Package Services, Delivery Confirmation would be restricted to parcels only and would no longer be available for flat-size mail. For First-Class Mail parcels, the fee would be $0.13 for the electronic option and $0.55 for the retail option. The fee for the retail option for Priority Mail would increase from $0.40 to $0.45. For Standard Mail, the fee for the electronic option would increase from $0.12 to $0.13. For Parcel Select, the electronic option would be included in postage. For all other Package Services, the fee would increase from $0.12 to $0.13 for the electronic option and from $0.50 to $0.55 for the retail option. See DMM R900.9.0.

For the purposes of adding Delivery Confirmation, a parcel would be defined as any piece that has an address side with sufficient surface area to fully display the delivery address, return address, postage, markings and endorsements, and the Delivery Confirmation label. The parcel would be required to be in a box, or if not in a box, would be required to be more than ¾-inch thick at its thickest point.

(7) Express Mail Insurance (DMM S500)

Insurance coverage included with Express Mail service would be lowered from $500 to $100. Incremental fees would be applied at $1.00 per each $100 of desired merchandise insurance coverage over $100. Document reconstruction maximum liability would decrease from $500 to $100. See DMM R900.11.0.

(8) Insurance (DMM S913)

The fee for unnumbered insurance of up to $50 (no insured number applied) would increase from $1.10 to $1.30. The fee for numbered insurance service over $50 and up to $100 (insured number applied) would increase from $2.00 to $2.20. The incremental fee of $1.00 for each $100 in value over $100 and up to $5,000 would remain the same. See DMM R900.12.0.

(9) Merchandise Return Service (DMM S923)

The annual accounting fee for merchandise return service would increase from $375 to $475. The annual permit fee would increase from $125 to $150. See DMM R900.14.0.

(10) Money Orders (DMM S020)

There would be two classification changes for money orders. The first change would increase the maximum amount from $700 to $1,000 for both domestic and APO/FPO money orders. The second change would introduce a two-level fee structure for domestic money orders. The fee for amounts of $0.01 to $500 would be $0.90, and the fee for amounts of $500.01 to $1,000 would be $1.25. The inquiry fee would increase from $2.75 to $3.00. The fee for APO/FPO money orders would remain the same. See DMM R900.16.0.

(11) Parcel Airlift (DMM S930)

Parcel Airlift (PAL) fees would increase. For parcels weighing not more than 2 pounds, the fee would increase from $0.40 to $0.45. For parcels not more than 3 pounds, the fee would increase from $0.75 to $0.85. For parcels not more than 4 pounds, the fee would increase from $1.15 to $1.25. For parcels over 4 pounds but not more than 30 pounds, the fee would increase from $1.55 to $1.70. See DMM R900.17.0.

(12) Registered Mail (DMM S911)

All registered mail fees would increase. The fee for registered mail without insurance would increase from $7.25 to $7.50. The incremental fee for registered mail with insurance per declared value level would increase from $0.75 to $0.85. The handling charge per $1,000 in value or fraction thereof for items valued over $25,000 also would increase from $0.75 to $0.85. A new service enhancement would be introduced to allow mailers to access delivery information for registered mail over the Internet at www.usps.com by

providing the registered article number. See DMM R900.21.0.

(13) Restricted Delivery (DMM S916)

The fee for restricted delivery would increase from $3.20 to $3.50. See DMM R900.22.0.

(14) Return Receipt (DMM S915)

The fee for regular return receipt service would increase from $1.50 to $1.75. The fee for return receipt after mailing would decrease from $3.50 to $3.25. A new service option would offer an electronic return receipt that includes delivery information and a copy of the signature to mailers who furnish an e-mail address at the point of purchase or preregister on the Internet at www.usps.com (available Fall 2002). Mailers would also have the option to purchase a return receipt after mailing over the Internet using a credit card (available Fall 2002). The new electronic return receipt fee would be $1.30. See DMM R900.23.0.

(15) Return Receipt for Merchandise (DMM S917)

The fee for return receipt for merchandise would increase from $2.35 to $3.00. See DMM R900.24.0.

(16) Signature Confirmation (DMM S919)

Retail (manual) and electronic Signature Confirmation options would be extended to First-Class Mail parcels. For Package Services, Signature Confirmation would be restricted to parcels only and would no longer be available for flat-size mail. For First-Class Mail parcels, the fee would be $1.30 for the electronic option and $1.80 for the retail option. The fee for the retail option for Priority Mail would increase from $1.75 to $1.80. For Package Services parcels, the fee would increase from $1.25 to $1.30 for the electronic option and from $1.75 to $1.80 for the retail option. See DMM R900.26.0.

For the purposes of adding Signature Confirmation, a parcel would be defined as any piece that has an address side with sufficient surface area to fully display the delivery address, return address, postage, markings and endorsements, and the Signature Confirmation label. The parcel would be required to be in a box, or if not in a box, would be required to be more than ¾-inch thick at its thickest point.

(17) Special Handling (DMM S930)

The fees for special handling would increase from $5.40 to $5.95 for pieces weighing up to 10 pounds and from $7.50 to $8.25 for pieces weighing over 10 pounds. See DMM R900.27.0.

b. Other Services Highlights

(1) Address Correction Service (DMM F030)

The fee for manual address correction service (ACS) notices would increase from $0.60 to $0.70. The fee for automated ACS would remain the same at $0.20. See DMM R900.1.0.

(2) Address Sequencing Service (DMM A920)

The fee for carrier sequencing of address cards service would increase from $0.25 to $0.30 per card. See DMM R900.2.0.

(3) Caller Service (DMM D920)

The caller service fee for each separation provided per semiannual period would increase from $375 to $412. The fee for each reserved call number per calendar year would increase from $30 to $32. See DMM R900.5.0.

(4) Mailing List Service (DMM A910)

The charge for correction of mailing lists would increase from $0.25 to $0.30 per correction. The minimum per list charge also would increase from $7.50 to $9.00 per list. The charge for sortation of mailing lists on cards into groups labeled by 5-digit ZIP Code would increase from $73 to $100. The charge for address changes for election boards would increase from $0.23 to $0.27. See DMM R900.13.0.

(5) Meter Service (DMM P030)

The fee for on-site meter service (per employee, per visit) would increase from $31 to $35. The fee for meter resetting and/or examination would increase from $4.00 to $5.00 per meter. The fee for check in/out of service (per meter) would remain the same. See DMM R900.15.0.

(6) Permit Imprint (DMM P040)

The permit imprint application fee would increase from $125 to $150.

(7) Pickup Service (DMM D010)

The fee for pickup service, available for Express Mail, Priority Mail, and Parcel Post, would increase from $10.25 to $12.50 (per pickup). See DMM R900.18.0.

(8) Post Office Box Service (DMM D910)

Overall, post office (PO) box fees would increase. A new PO box fee category would be introduced for PO box service in the lowest-cost cities and highest-cost rural areas. This new fee group would provide a bridge to eventually move high-cost and low-cost ZIP Codes toward more appropriate fee assignments. PO box key duplication or replacement (after first two keys) would increase from $4.00 to $4.40 each. PO box lock replacement would increase from $10 to $11.

There would be no proposed change to no-fee PO box service (Group E). See DMM R900.20.0.

(9) Shipper Paid Forwarding (DMM F010)

The accounting fee would increase from $375 to $475. See DMM R900.25.0.

(10) Stamped Cards and Stamped Envelopes

The fee for stamped cards would remain the same. Special stamped envelopes (i.e., those with holograms or patch-in stamps) are no longer offered. The fees for the other types of available stamped envelopes would remain the same.

Part B—Summary of Changes to the Domestic Mail Manual

The following information details the R2001–1 proposed changes organized by DMM module. This information is intended as an overview only and should not be viewed as defining every proposed DMM revision. The actual proposed DMM changes appear in this notice after Part B.

A Addressing

A010 would be amended to remove information about upgradable mail (already included in C830) and to move Exhibit 4.5 to C830.1.0.

The title of A800 would be changed to show the standards apply to all automation-compatible mail, not just mail claimed at automation rates.

A950 would be revised to clarify that the mailer's signature on a postage statement certifies the mail meets the requirements for the rates claimed and to change the requirements for filing Form 3553, Coding Accuracy Support System (CASS) Summary Report. Mailers would no longer be required to submit Form 3553 with each mailing. They would have to retain the form on file for 1 year from the date of mailing and make it available to the Postal Service on 24-hour notice.

C Characteristics and Content

C010 would be amended to show that Standard Mail ECR pieces are subject to the standards for mailpiece dimensions and to remove information about the First-Class Mail nonstandard surcharge. C050 would be amended to add the nonmachinable criteria for letters.

Exhibit C050.2.0 would be renumbered as Exhibit C050.1.0.

C100.2.0 would be revised to implement proposed changes to the Domestic Mail Classification Schedule (DMCS) for pieces mailed at First-Class Mail card rates. This DMCS change would clarify the standards for physical construction, formatting, and addressing for card rate pieces. C100.4.0 would be revised to reflect changes to the nonmachinable surcharge (formerly the nonstandard surcharge) for some First-Class Mail letters and flats.

C810 would be amended to remove references to upgradable First-Class Mail and Standard Mail, to increase the weight limit for Standard Mail automation and ECR letters to 3.5 ounces, and to clarify that signing a postage statement certifies the mail meets the requirements for the rates claimed.

C820 would be amended to add a weight limit for Bound Printed Matter flats claimed at automation flat rates.

C840 would be amended to remove references to add barcode standards for ECR saturation and high density pieces and to remove references to upgradable mail.

D Deposit, Collection, and Delivery

D210.3.4 would be amended to reflect the change that the destination sectional center facility (DSCF) rate would apply to eligible mail entered at the DSCF under exceptional dispatch. D210.4.0 would be revised to show that the DSCF rate would not apply to mail entered at airport mail facilities (AMFs).

The provisions for Periodicals contingency entries would be deleted in D230.2.2 and 4.6.

D500 would be amended to include several additional provisions that affect postage refund requests for Express Mail when the service guarantee is not met.

E Eligibility

E100

E110.3.0 would be amended to implement changes to the Domestic Mail Classification Schedule (DMCS) for pieces mailed at First-Class Mail card rates.

E120.2.2 would be amended to change the current Priority Mail flat rate priced at the 2-pound rate to the new 1-pound rate, regardless of the weight of the material placed in the flat-rate envelope. E120.2.4 reflects changes to the correct postage for keys and identification devices. When they weigh more than 13 ounces but not more than 1 pound, they would be returned at the 1-pound rate plus the fee shown in R100.10.0. Keys and identification devices that weigh more than 1 pound but not more than 2 pounds would be charged at the 2-pound Priority Mail rate plus the fee in R100.10.0.

E130 would be amended to show that the nonmachinable surcharge would apply to keys and identification devices, certain letter-size and flat-size pieces mailed at single-piece and Presorted rates, and all pieces where the mailer chooses the ''manual only'' (do not automate) preparation option. It also would be amended to clarify that signing a postage statement certifies the mail meets the requirements for the rates claimed.

E140 would be amended to reorganize the information about rate application into two separate sections: one for cards and letter-size mail (2.0) and one for flat-size mail (3.0). E140.2.0, Rate Application for Cards and Letters, would be amended to replace the basic rate with the new AADC and mixed AADC rates. E140.3.0, Rate Application for Flats, would be amended to replace the basic rate with the new ADC and mixed ADC rates and to clarify the definition of a piece that is subject to the nonmachinable surcharge. E140 would be amended to clarify that signing a postage statement certifies the mail meets the requirements for the rates claimed.

E200

E217.1.0 and 3.0 would be amended to reflect references to the new destination area distribution center (DADC) rates and discounts for Outside-County and Outside-County Science-of-Agriculture rates. E217.5.0 would be restructured for clarity and amended to include standards for the new per piece pallet and per piece destination entry pallet discounts.

The standards for combining multiple publications or editions in E220.3.0 and E230.4.0 would be consolidated into new M230. E220 and E240 would be amended to clarify that signing a postage statement certifies the mail meets the requirements for the rates claimed.

The proposal amends E250 by adding a new 1.0 that provides standards for new DADC rate eligibility, and renumbering former 1.0 (DSCF) and 2.0 (DDU) as 2.0 and 3.0, respectively. New E250.2.0 would reflect the change requiring DSCF rate mail to be entered at the SCF or another postal-designated facility. It is proposed to further amend E250.2.0 to clarify that DSCF rates do not apply to mail placed in an ADC, AADC, mixed ADC or mixed AADC sack or tray, or on an ADC or mixed ADC pallet.

New E260 (former G094) would describe the standards for the Periodicals Ride-Along classification and rate, which is proposed to become a permanent classification. All of G094 would be moved except for 2.0 and 3.0. Former 2.0, which contains rate information, would appear as part of R200. Former 3.0 would be deleted, as publishers would no longer be required to submit additional documentation with Ride-Along mailings.

E500

E500 would be amended to change the current 2-pound Express Mail flat rate to the new ½-pound rate regardless of the weight of the material placed in the flat-rate envelope.

E600

E610.8.0 would be amended to remove references to upgradable Standard Mail.

E620 would be amended to remove references to upgradable mail and to show that the nonmachinable surcharge may apply to letter-size pieces that weigh 3.3 ounces or less and to all pieces where the mailer chooses the ''manual only'' (do not automate) option. New language would be added to explain the discount for automation-compatible pieces that weigh between 3.3 and 3.5 ounces.

E630 would be reorganized for clarity. Standards would be added to show that letter-size pieces mailed at saturation and high density letter rates must be automation-compatible and must have a delivery point barcode.

E640 would be amended to replace the basic automation letter rate with the new AADC and mixed AADC rates and to add the discount for automation letters that weigh between 3.3 and 3.5 ounces. E640.2.0 would be amended to add the discount for ECR basic automation letters that weigh between 3.3 and 3.5 ounces.

E620 and E640 would be amended to clarify that signing a postage statement certifies the mail meets the requirements for the rates claimed.

E700

E712.1.1b would be revised to add a weight limit for BPM flats claiming the barcoded discount. E712.1.4, which excluded BPM flats from eligibility to receive an automation rate, would be removed. E712.2 would be amended to add a new standard for BPM automation flats. E712.2.0e would be added to include a barcoded discount for automation flats. E712.3.0 would be amended to clarify that the mailer's signature on the postage statement

certifies the mail meets the requirements for the rates claimed.

E713 and E714 would be revised in their entirety to reflect the format used for BPM in E712, E713 and E714 would be amended to change references from ''BMC rate'' to ''basic rate'' and from ''500 pieces'' to ''300 pieces.'' E713 and E714 would be revised to allow preparation of Media Mail and Library Mail mailings with two presort levels.

E751.1.1 would be amended to add provisions to require mail on pallets for 3-digit ZIP Code prefixes to be entered at the SCF. E751.1.4a would be amended to clarify that nonmachinable parcels sorted to 3-digit ZIP Code prefixes must be entered at a designated SCF. In E751.2.2c, d, and e, references would be added to allow the preparation of ''3-digit sacks'' and ''3-digit pallets.'' E751.5 and E753 would be amended to change the references from ''BMC rate'' to ''basic rate.''

F Forwarding and Related Services

F010.4.0 would be amended to remove references to nonstandard mail. F010.5.2 would be amended to show the nonmachinable surcharge can be charged on Periodicals returned at First-Class Mail single-piece rates. F010.5.3 would be amended to show the First-Class Mail single-piece nonmachinable surcharge is included in the calculation of the weighted fee for returned pieces and is charged on some returned Standard Mail pieces. F010.6.0 would be amended to include these same changes.

F030.1.6 would be amended to clarify the circumstances under which address notices are not provided by the Postal Service.

G General Information

G091.4.0 would be revised to clarify that First-Class Mail automation letter-size pieces and parcels, First-Class automation cards, Standard Mail automation letter-size pieces, and Standard Mail Nonprofit automation letter-size pieces, using NetPost Mailing Online would be eligible for the mixed AADC rate. First-Class Mail automation flat-size pieces and parcels would be eligible for the mixed ADC rate. Flat-size pieces at the regular and nonprofit Standard Mail automation rates would be eligible for the basic rates. First-Class Mail that is not eligible for any automation rate would be subject to the applicable single-piece rates.

The Ride-Along classification in G094 would be made a permanent classification. Therefore, the standards currently in G094 would be relocated to new E260.

L Labeling Lists

The titles and summaries, as appropriate, of labeling lists L001, L800, L802, and L803 would be amended to reflect new mail preparation options.

Note: New labeling list L006 and the accompanying 5-digit metro pallet sort for packages of flats is effective on March 31, 2002. Notice of this change was published in Postal Bulletin 22066 (12–27–01).

M Mail Preparation and Sortation

M000

M011.1.3 would be amended to show that a full letter tray is defined as one that is between 75% and 100% full. M011.1.4 would be amended to remove references to upgradable mailings, to show that machinable and nonmachinable pieces cannot be part of the same mailing, and to show that ECR letter pieces cannot be part of the same mailing as nonletter rate pieces. M012.2.0 would be revised to update information about MLOCR markings. M012.3.3 would be revised to include additional rate markings for BPM presorted automation flats and BPM carrier route flats. M012.4.5 would be deleted to remove references to upgradable mail.

The summary for M020 would be amended to include references to Media Mail and Library Mail. M020.1.6 would be amended to add Media Mail and Library Mail in the package size requirements. In addition, the maximum weight for packages in sacks would be 20 pounds unless otherwise noted, and packages of BPM automation flats would have to meet the preparation requirements in M820. M020.2.0 would be amended to include additional standards for packaging Media Mail and Library Mail. M020.2.1 would be amended to remove references to the upgradable preparation for First-Class Mail and Standard Mail and to show that nonmachinable and ''manual only'' pieces must be packaged. M020.2.2 would be amended to require that Media Mail and Library Mail pieces meet specific weight limits when placed in sacks or on pallets.

The container labeling requirements in M031.5.0 would be amended to revise the Line 2 code for ''carrier routes,'' ''letters,'' and ''machinable'' and to add a new Line 2 code for ''manual.'' Exhibit M032.1.3a would be amended to change the content identifier number (CIN) codes for the new machinable and nonmachinable preparation for First-Class Mail and Standard Mail letter-size pieces. The exhibit also would be amended to add new CIN codes for Standard Mail ECR letters and designate CIN codes for certain Package Services flat-size pieces. M033.2.0 would be amended to clarify standards for filling letter trays.

M041.5.0 and M041.5.6 would be amended to show that the minimum volume for letter trays on pallets is measured in linear feet, not by the number of layers of trays on the pallet. M041.5.5 would be amended to clarify the maximum load of a pallet. M045.3.2 would be amended to show that pallets of carrier route mail must show whether the mail is barcoded, machinable, or manual. M045.3.3 through M045.3.5 would show revised titles, including Media Mail and Library Mail. M045.6.0 would be removed and included in aforementioned sections. M050.4.1 would be amended to show that signing a postage statement certifies that the mail meets the requirements for the rates claimed.

M100

M130 would be substantially revised to show the packaging, traying, and labeling standards for machinable, nonmachinable, and ''manual only'' letter-size mail.

M200

To reduce redundancy, the standards for combining multiple publications or editions in M210.6.0 and M220.6.0 would be consolidated and relocated in new M230.

M600

M610 would be substantially revised to show the packaging, traying, and labeling standards for machinable, nonmachinable, and ''manual only'' letter-size mail. M630 would be revised to show the new Line 2 labeling for trays of ECR letter-size pieces.

M700

M710.2.1 would be revised to add provisions for a 3-digit sort level for nonmachinable parcels claiming DSCF rates.

M730 and M740 would be amended to change references from ''BMC rate'' to ''basic rate.'' M730 and M740 would also be amended to include separate preparation standards for Media Mail and Library Mail flats, irregular parcels, and machinable parcels.

M800

M810.1.0 would be amended to replace references to the automation basic rate for letter-size pieces with the new AADC and mixed AADC rates. M810.2.0 would be amended to show the new Line 2 labeling formats for First-Class Mail and Standard Mail automation letters.

M820.1.0 would be amended to replace references to the automation basic rate for flat-size pieces with the new ADC and mixed ADC rates. M820.6.1 would be revised to provide packaging and sacking standards for flat-size pieces eligible for the Bound Printed Matter automation rates.

P Postage and Payment Methods

P000

P011.1.0 would be amended to reflect that the nonstandard surcharge would be replaced with the new nonmachinable surcharge. P012.2.0 would be amended to add new rate level abbreviations for the AADC, ADC, mixed AADC, and mixed ADC rates. P012.3.0 would be amended to reflect references to the new DADC rate for Periodicals.

P013.2.0 would be amended to reflect the new zoning of Priority Mail rates affecting all pieces over 1 pound and up to 5 pounds. This section would also be amended to reflect that each addressed Express Mail or Priority Mail flat-rate envelope would be charged the Express Mail rate for 1/2-pound or the Priority Mail rate for 1 pound, as applicable, regardless of the actual weight.

P013.8.0 would be amended to show how to calculate postage for Standard Mail automation rate letter-size pieces and ECR automation-compatible letter-size pieces that weigh more than 3.3 ounces.

P014.5.0 would be amended to expand the circumstances under which the Postal Service may deny Express Mail postage refund requests when the service guarantee is not met.

P021.3.1 would be amended to note the availability of stamped cards.

P100

P100.4.0 and 5.0 would be amended to change ''nonstandard surcharge'' to ''nonmachinable surcharge.''

P200

P200.1.5 would be amended to include requirements for separating DADC entry pieces if the mailing is not presented with mailing documentation at the time of postal verification. New P200.1.8 would contain the standards for the waiving of nonadvertising rates relocated from P200.2.4.

P600

P600.2.1 would be amended to include standards for the new nonmachinable surcharge for Standard Mail.

P900

P910 would be amended to add new rate category abbreviations for the AADC, ADC, mixed AADC, and mixed ADC rates for First-Class Mail and Standard Mail.

P960 would be amended to clarify when MLOCR markings must appear on mailpieces and to add new MLOCR markings for the AADC, ADC, mixed AADC, and mixed ADC rates for First-Class Mail and Standard Mail.

R Rates and Fees

The entire R Module would be revised to reflect the proposed rates and fees for all classes of mail and special services.

S Special Services

S020 would be amended to increase the maximum amount of a single money order from $700 to $1,000.

S010 and S500 would be amended to reduce the indemnity included in the base price of Express Mail service from $500 to $100.

S911 and S912 would be amended to add that mailers can access delivery information over the Internet at www.usps.com. Mailers would be required to provide the certified mail or registered mail article number.

S915 would be amended to add a new service option, available in Fall 2002, that would provide mailers with an electronic return receipt if they provide an e-mail address at the point of purchase or preregister on the Internet at www.usps.com. Also available in Fall 2002, is another option that would allow mailers to purchase a return receipt after mailing via the Internet at www.usps.com.

S918 and S919 would be amended to extend Delivery Confirmation and Signature Confirmation to First-Class Mail parcels, and also to limit this service to parcels only in the Package Services mail class. S918 and S919 would also specify that for the purposes of adding Delivery Confirmation or Signature Confirmation service, a parcel would be required to meet the definition in C100.5.0 or C700.1.0, as appropriate.

Although exempt from the notice and comment requirements of the Administrative Procedures Act [5 U.S.C. 553 (b), (c)] regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites comments on the following proposed revisions of the Domestic Mail Manual (DMM) incorporated by reference in the Code of Federal Regulations. See 39 CFR part 111.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

PART 111—[AMENDED]

1. The authority citation for 39 CFR Part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 414, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

2. Revise the following sections of the Domestic Mail Manual (DMM) as follows:

A Addressing

A000 Basic Addressing

A010 General Addressing Standards

1.0 ADDRESS CONTENT AND PLACEMENT

* * * * *

[Amend the title and content of 1.3 to replace ''nonstandard'' with ''nonmachinable.'' No other changes to the text.]

* * * * *

2.0 ZIP CODE

* * * * *

[Amend the title and text of 2.3 to remove obsolete information about the DPBC numeric equivalent to read as follows:]

2.3 Numeric DPBC

A numeric equivalent of a delivery point barcode (DPBC) consists of five digits, a hyphen, and seven digits as specified in C840. The numeric equivalent is formed by adding three digits directly after the ZIP+4 code.

[Remove 2.4, Class and Rate Standards.]

* * * * *

4.0 RETURN ADDRESS

* * * * *

[Remove 4.5, Upgradable Mail.]

[Redesignate Exhibit 4.5, OCR Read Area and Barcode Clear Zone, as Exhibit C830.1.1.]

* * * * *

[Amend the title of A800 to show that the unit contains standards that apply to any barcoded pieces, not just mail claimed at automation rates, to read as follows:]

A800 Addressing for Barcoding

1.0 Accuracy

* * * * *

1.3 Numeric DPBC

[Amend 1.3 to remove obsolete information about the DPBC numeric sequivalent to read as follows:]

A numeric equivalent of the delivery point barcode (DPBC) consists of five digits, a hyphen, and seven digits, as specified in C840. The numeric

equivalent is formed by adding three digits directly after the ZIP+4 code.

* * * * *

A950 Coding Accuracy Support System (CASS)

* * * * *

3.0 DATE OF ADDRESS MATCHING AND CODING

3.1 Update Standards

[Amend 3.1 to clarify that signing a postage statement certifies that the mail meets the requirements for the rates claimed to read as follows:]

Unless Z4CHANGE is used, all automation and carrier route mailings bearing addresses coded by any AIS product must be coded with current CASS-certified software and the current USPS database. Coding must be done within 90 days before the mailing date for all carrier route mailings and within 180 days before the mailing date for all non-carrier route automation rate mailings. All AIS products may be used immediately on release. New product releases must be included in address matching systems no later than 45 days after the release date. The overlap in dates for product use allows mailers adequate time to install the new data files and test their systems. Mailers are expected to update their systems with the latest data files as soon as practicable and need not wait until the ''last permissible use'' date to include the new information in their address matching systems. The mailer's signature on the postage statement certifies this standard has been met when the corresponding mail is presented to the USPS. The current USPS database product cycle is defined by the following matrix.

* * * * *

5.0 DOCUMENTATION

[Amend 5.1 to show that mailers must complete Form 3553 and to show that signing a postage statement certifies that the mail meets the requirements for the rates claimed to read as follows:]

5.1 Form 3553

Unless excepted by standard, the mailer must complete a Form 3553 for each mailing claimed at automation rates, carrier route Periodicals rates, Enhanced Carrier Route Standard Mail rates, and carrier route Bound Printed Matter rates. A computer-generated facsimile may be used if it contains the required data elements in a format similar to the USPS form. The data recorded on Form 3553 must refer only to the address list used to produce the mailing with which it is presented. The mailer certifies compliance with this standard when signing the corresponding postage statement.

[Amend 5.2 to show that supporting documentation does not have to be submitted with the mailing, but must be retained by the mailer or mailer's agent for 1 year to read as follows:]

5.2 Retention Period

Form 3553 and other documentation must be kept by the mailer or the mailer's agent for 1 year from the date of mailing and be made available to the USPS on 24-hour notice.

* * * * *

5.5 Using a Single List

[Amend 5.5 by adding retention requirements to read as follows:]

When a mailing is produced using all or part of a single address list, the mailer must retain one Form 3553 and other required documentation reflecting the summary output information for the entire list, as obtained when the list was coded. When the same address list is used for other mailings within 180 days of the date it was matched and coded, a copy of the Form 3553 must be retained with the documentation for each mailing.

5.6 Using Multiple Lists

[Amend 5.6 by adding retention requirements to read as follows:]

When a mailing is produced using multiple address lists, the mailer must retain a consolidated Form 3553 summarizing the individual summary output and/or facsimile Forms 3553 for each list used (and other required documentation). As an alternative, the mailer may combine the addresses selected from the multiple lists into a single new list, reprocess the addresses using CASS-certified address matching software, and retain one Form 3553 for the summary output generated by that process.

[Remove current 5.7, redesignate 5.8 as 5.7, and amend by adding retention requirements to read as follows:]

5.7 Using CASS Certificate

If the name of the CASS-certified company entered on Form 3553 does not appear on the list published by the USPS, a copy of the CASS certificate for the software used also must be retained by the mailer with the documentation.

* * * * *

C Characteristics and Content

C000 General Information

C010 General Mailability Standards

1.0 MINIMUM AND MAXIMUM DIMENSIONS

* * * * *

1.3 Length and Height

[Remove 1.3b and redesignate current 1.3c as 1.3b. There are no other changes to the text. Standard Mail Enhanced Carrier Route pieces would be subject to the standards pertaining to length and height.]

* * * * *

[Remove 1.6, Nonstandard Surcharge.]

* * * * *

C050 Mail Processing Categories

1.0 BASIC INFORMATION

[Amend 1.0 to add a reference to new Exhibit 1.0 (redesignated Exhibit 2.0) to read as follows:]

Every mailpiece is assigned to one of the mail processing categories in the following sections. These categories are based on the physical dimensions of the piece, regardless of the placement (orientation) of the delivery address on the piece. Exhibit 1.0 shows the minimum and maximum dimensions for some mail processing categories.

[Redesignate Exhibit 2.0, Mail Dimensions, as Exhibit 1.0 and insert here.]

2.0 LETTER-SIZE MAIL

[Revise 2.0 to read as follows:]

2.1 Minimum and Maximum Size

Letter-size mail is:

a. Not less than 5 inches long, 3½ inches high, and 0.007 inch thick.

b. Not more than 11½ inches long, 6⅛ inches high, and ¼-inch thick.

2.2 Nonmachinable Criteria

A letter-size piece is nonmachinable if it has one or more of the following characteristics (see C010.1.1 for how to determine the length, height, top, bottom, and sides of a mailpiece):

a. Has an aspect ratio (length divided by height) of less than 1.3 or more than 2.5.

b. Is polybagged, polywrapped, or enclosed in any plastic material.

c. Has clasps, strings, buttons, or similar closure devices.

d. Contains items such as pens, pencils, keys, and loose coins that cause the thickness of the mailpiece to be uneven.

e. Is too rigid (does not bend easily when subjected to a transport belt tension of 40 pounds around an 11-inch diameter turn).

f. For pieces more than 4¼ inches high or 6 inches long, the thickness is less than 0.009 inch.

g. Has a delivery address parallel to the shorter dimension of the mailpiece.

h. For folded self-mailers, the folded edge is perpendicular to the address, regardless of the use of tabs, wafer seals, or other fasteners.

i. For booklet-type pieces, the bound edge (spine) is the shorter dimension of the piece or is at the top, regardless of the use of tabs, wafer seals, or other fasteners.

2.3 Automation Rates

Letters and cards mailed at automation rates must meet the standards in C810.

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C100 First-Class Mail

* * * * *

2.0 CARDS CLAIMED AT CARD RATES

[Revise 2.0 to implement new Domestic Mail Classification Schedule language for cards claimed at card rates to read as follows. The Postal Service is proposing a 6-month phase-in period for compliance with these standards (see sections 2.7 and 2.8). After the phase-in period, cards that do not meet the standards in 2.0 would not be eligible for card rates):]

2.1 Definition

Cards eligible for card rates are:

a. Stamped cards (cards with postage imprinted on them and supplied by the USPS). Three types of stamped cards are available. See P021.3.1.

b. Postcards (commercially prepared mailing cards that meet the criteria of this section).

c. Double cards (see 2.11). These cards consist of two attached postcards, one of which is designed to be detached by the recipient and mailed back as a reply. The reply half of a double card may be a business reply card (S922) or a merchandise return service label (S923.5.4).

2.2 Rates

Cards can be prepared and mailed at First-Class Mail single-piece, Presorted, and automation rates. Cards that do not meet the applicable standards in 2.0 are not eligible for card rates.

2.3 Dimensions

Each card or each half of a double card mailed at a card rate must be:

a. Rectangular.

b. Not less than 3½ inches high, 5 inches long, and 0.007 inch thick.

c. Not more than 4¼ inches high, 6 inches long, and 0.016 inch thick.

2.4 Paper Stock

A card must be of uniform thickness and made of unfolded and uncreased paper from stock meeting the industry standard for a basis weight of 75 pounds or greater (with a tolerance of 4-pound basis weight). A card may be formed of one piece of paper or cardstock, or two pieces of paper that are permanently and uniformly bonded together. The cardstock may be of any light color that permits printing of legible addresses and markings.

2.5 Perforations

A card may have perforations as long as they do not eliminate or interfere with any address element, postage, or postal markings and do not compromise the physical integrity of the card. A minimum ratio of 50:50 (stock to perforations) is required.

2.6 Attachments

A card may bear an attachment that is totally adhered to the card surface, not an encumbrance to postal processing, and one of the following:

a. Made of paper, such as a label, wafer seal, or decal and is affixed by permanent adhesive, including an address label affixed by permanent adhesive for the delivery or return address.

b. A small reusable seal or decal prepared with pressure-sensitive and nonremovable adhesive, designed to be removed from the first half of a double card and applied to the reply half.

2.7 Address Side and Delivery Address

Cards eligible for and claimed at the single-piece rate are not subject to the standards in this section. The address side of the card must be formatted so that the delivery address, return address, postage, rate markings, and any ancillary service endorsement are clearly distinguished from any message and other nondelivery information. nondelivery information may not appear to the right of or below the delivery address. The delivery address must appear within an area:

a. ½ inch from the right edge of the card.

b. ½ inch from the left edge of the card.

c. ⅝ inch from the bottom edge of the card.

d. The top line of the address block may be no more than 2¾ inches from the bottom edge of the card.

2.8 Cards Divided Vertically

Cards eligible for and claimed at the single-piece rate are not subject to the standards in this section. A card may be divided vertically into a right side and a left side, with or without a vertical rule. If used, a vertical rule may not extend lower than ⅝ inch from the bottom edge of the card. The following standards also apply:

a. The right side must measure at least 2⅛ inches wide from the right edge of the card.

b. The postage, delivery address, and rate markings must appear on the right side.

c. The delivery address lines must be uniformly left aligned; a minimum ¼-inch clear space must be maintained between the delivery address and the vertical rule, if used, or any nondelivery information on the left side.

d. Nondelivery information may appear on the left side only, except that the information may extend into the right side of the card above the address block. Any such information extending into the right side must be shaded, surrounded by a border, or separated with a minimum ¼-inch clear space between the postage, delivery address, return address, rate markings, and any ancillary service endorsement.

2.9 Postage and Rate Markings

Cards eligible for and claimed at the single-piece rate are not subject to the standards in this section. Postage and rate markings must appear in the upper right of the address area or in the upper right corner of the card. A minimum ¼-inch clear space, with or without a border, must be maintained between nondelivery information and the postage, return address, rate markings, and any ancillary service endorsement.

2.10 Return Address

If a mailer chooses to include a return address, it must be placed in the upper left corner of the address area or the upper left corner of the address side of the card.

2.11 Double Cards

A double card must be folded before mailing and prepared so that the address on the reply half is on the inside when originally mailed. Enclosures in double cards are prohibited at card rates. The following standards apply:

a. The first half of a double card must be detached when the reply half is mailed for return. The reply half must be used for reply only and may not be used to convey a message to the original addressee or to send statements of account. It may be formatted for reply purposes (e.g., contain blocks for completion by the addressee).

b. Double cards that are not prepared in accordance with C810 are considered

nonmachinable and must be prepared as nonmachinable pieces under M130.

c. Plain stickers, seals, or a single wire stitch (staple) may be used to fasten the open edge of double cards.

* * * * *

[Amend the title and content of 4.0 to reflect the new nonmachinable surcharge for some First-Class Mail letters and flats to read as follows:]

4.0 NONMACHINABLE PIECES

Letter-size pieces that weigh 1 ounce or less and meet one or more of the nonmachinable characteristics in C050.2.2 may be subject to the nonmachinable surcharge (see E130 and E140). Nonletters (flats and parcels) that weigh 1 ounce or less are subject to the nonmachinable surcharge if any one of the following applies (see C010.1.1 for how to determine the length and height of a mailpiece):

a. The piece is greater than ¼-inch thick.

b. The length is more than 11½ inches or the height is more than 6⅛ inches.

c. The aspect ratio (length divided by height) is less than 1.3 or more than 2.5.

[Redesignate section 5.0, Facing Identification Mark (FIM), as 6.0. Add new 5.0, Parcels, to read as follows:]

5.0 Parcels

For the purposes of adding Delivery Confirmation and Signature Confirmation, a First-Class Mail parcel is defined as any piece that:

a. Has an address side with enough surface area to fit the delivery address, return address, postage, rate markings and endorsements, and special service label; and,

b. Is in a box, or if not in a box, is more than ¾-inch thick at its thickest point.

* * * * *

C200 Periodicals

Summary

[Revise the summary in C200 to read as follows:]

C200 describes permissible mailpiece components (e.g., enclosures, attachments, and supplements) and impermissible or prohibited components for Periodicals mail. It also describes mailpiece construction and required printed features such as title, imprint, and publication address.

* * * * *

C600 Standard Mail

1.0 DIMENSIONS

1.1 Basic Standards

These standards apply to Standard Mail:

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[Redesignate 1.1c and 1.1d as 1.1d and 1.1e, respectively. Redesignate Exhibit 1.1d as Exhibit 1.1e. Add new 1.1c to require that some ECR letters must meet the physical standards for automation letters in C810 to read as follows:]

c. ECR pieces mailed at high-density and saturation letter rates must meet the standards for automation-compatible mail in C810.

* * * * *

[Redesignate 3.0, Postal Inspection, and 4.0, Enclosures, as 4.0 and 5.0, respectively. Add new 3.0, Nonmachinable Pieces, to reflect the new nonmachinable surcharge for some Standard Mail letters to read as follows:]

3.0 NONMACHINABLE PIECES

Letter-size pieces that weigh 3.3 ounces or less and meet one or more of the nonmachinable criteria in C050.2.2 may be subject to the nonmachinable surcharge (see E620).

* * * * *

C700 Package Services

1.0 PACKAGE SERVICES

These standards apply to Package Services:

* * * * *

[Insert new 1.0h to read as follows:]

h. For the purposes of adding Delivery Confirmation and Signature Confirmation, a Package Services parcel is defined as any piece that meets the following standards:

(1) Has an address side with enough surface area to fit the delivery address, return address, postage, markings and endorsements, and special service label.

(2) Is in a box, or if not in a box, is more than ¾-inch thick at its thickest point.

[Amend the title of 2.0 by adding ''Surcharge'' to read as follows:]

2.0 NONMACHINABLE SURCHARGE—PARCELS

* * * * *

[Amend the title of C800 by adding ''Machinable'' to read as follows:]

C800 Automation-Compatible and Machinable Mail

C810 Letters and Cards

1.0 BASIC STANDARDS

[Amend 1.0 to show that some ECR letters must meet the standards for automation-compatible mail to read as follows:]

Letters and cards claimed at automation rates and at some Standard Mail Enhanced Carrier Route rates must meet the standards in 2.0 through 8.0. Pieces claimed at First-Class Mail automation card rates also must meet the standards in C100. Unless prepared under 7.2 through 7.4, each mailpiece must be prepared either as a sealed envelope (the preferred method) or, if unenveloped, must be sealed or glued on all four sides.

2.0 DIMENSIONS

* * * * *

2.4 Maximum Weight

[Amend 2.4 to replace the weight limit for upgradable letters with the weight limit for machinable letters, to raise the weight limit for Standard Mail automation heavy letters to 3.5 ounces, and to add a weight limit for ECR high density and saturation letters, to read as follows:]

Maximum weight limits are as follows:

a. First-Class Mail:

(1) Machinable Presorted: 3.3 ounces (0.2063 pound).

(2) Automation (see 7.5 for pieces heavier than 3 ounces): 3.3 ounces (0.2063 pound).

b. Periodicals automation (see 7.5 for pieces heavier than 3 ounces): 3.3 ounces (0.2063 pound).

c. Standard Mail:

(1) Machinable Presorted: 3.3 ounces (0.2063 pound).

(2) Automation regular and carrier route (see 7.5 for pieces heavier than 3 ounces): 3.5 ounces (0.2188 pound).

(3) Enhanced Carrier Route high density and saturation (see 7.5 for pieces heavier than 3 ounces): 3.5 ounces (0.2188 pound).

* * * * *

8.0 ENCLOSED REPLY CARDS AND ENVELOPES

8.1 Basic Standard

[Amend the first paragraph of 8.1 to clarify that signing a postage statement certifies the mail meets the requirements for the rates claimed to read as follows:]

All letter-size reply cards and envelopes (business reply mail (BRM), courtesy reply mail (CRM), and meter reply mail (MRM)) provided as enclosures in automation First-Class Mail, Periodicals, and Standard Mail, and addressed for return to a domestic delivery address, must meet the applicable automation-compatible mail standards in C810. The mailer's

signature on the postage statement certifies that this standard, and the standards listed below, have been met when the corresponding mail is presented to the USPS: * * *

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C820 Flats

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2.0 DIMENSIONS AND CRITERIA FOR FSM 881 PROCESSING

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2.4 Maximum Weight

[Amend 2.4 to add a weight limit for BPM flats by adding new 2.4d to read as follows:]

d. For Bound Printed Matter pieces claiming the barcode discount, 16 ounces.

* * * * *

C830 OCR Standards

1.0 OCR READ AREA

1.1 Definition

[Amend 1.1 to add a reference to new Exhibit 1.1 (redesignated Exhibit A010.4.5) to read as follows:]

The optical character reader (OCR) read area is a rectangular area on the address side of the mailpiece formed by these boundaries (see Exhibit 1.1):

a. Left: ½ inch from the left edge of the piece.

b. Right: ½ inch from the right edge of the piece.

c. Top: 2¾ inches from the bottom edge of the piece.

d. Bottom: ⅝ inch from the bottom edge of the piece.

[Insert Exhibit 1.1, OCR Read Area and Barcode Clear Zone (redesignated Exhibit A010.4.5). There are no changes to the exhibit.]

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C840 Barcoding Standards for Letters and Flats

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2.0 BARCODE LOCATION FOR LETTER-SIZE PIECES

2.1 Barcode Clear Zone

[Amend the first paragraph in 2.1 to remove references to show that Standard Mail Enhanced Carrier Route pieces must have a barcode clear zone and to remove references to upgradable mail, to read as follows:]

Each letter-size piece in an automation rate mailing or claimed at an Enhanced Carrier Route saturation or high density rate must have a barcode clear zone unless the piece bears a DPBC in the address block. The barcode clear zone and all printing and material in the clear zone must meet the reflectance standards in 5.0. The barcode clear zone is a rectangular area in the lower right corner of the address side of cards and letter-size pieces defined by these boundaries: * * *

* * * * *

2.2 General Standards

[Amend 2.2 to show that these standards for delivery point barcodes also would apply to Enhanced Carrier Route saturation and high density rate pieces, to read as follows:]

Automation rate pieces and pieces claimed at an Enhanced Carrier Route saturation or high density rate that weigh 3 ounces or less may bear a DPBC either in the address block or in the barcode clear zone. Pieces that weigh more than 3 ounces must bear a DPBC in the address block.

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5.0 REFLECTANCE

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5.4 Dark Fibers and Background Patterns

[Amend 5.4 to include references to Enhanced Carrier Route saturation and high density rate pieces and remove 5.4c to read as follows:]

Dark fibers or background patterns (e.g., checks) that produce a print contrast ratio of more than 15% when measured in the red and green portions of the optical spectrum are prohibited in these locations:

a. The area of the address block or the barcode clear zone where the barcode appears on a card-size or a letter-size piece mailed at automation rates or at Enhanced Carrier Route saturation or high density rates.

b. The area of the address block or the area of the mailpiece where the barcode appears on a flat-size piece in an automation rate mailing.

* * * * *

[Amend the title and summary text of C850 by replacing ''Standard Mail'' and ''Package Services'' with ''Parcels'' to read as follows:]

C850 Barcoding Standards for Parcels

Summary

C850 describes the technical standards for barcoded parcels. It defines parcel barcode characteristics, location, and content.

1.0 GENERAL

1.1 Basic Requirement

[Amend 1.1 to remove references to specific classes of mail to read as follows:]

Every parcel eligible for a barcode discount must bear a properly prepared barcode that represents the correct ZIP Code information for the delivery address on the mailpiece plus the appropriate verifier character suffix or application identifier prefix characters as described in 1.0 through 4.0. The combination of appropriate ZIP Code and verifier or application identifier characters uniquely identifies the barcode as the postal routing code.

* * * * *

1.4 Use With Delivery Confirmation and Signature Confirmation Services

[Amend 1.4 to remove references to specific classes of mail to read as follows:]

A mailer may qualify for the machinable parcel barcode discount and may apply Delivery Confirmation and Signature Confirmation barcodes in one of the following ways:

* * * * *

[Amend 1.4c to delete references to specific classes of mail (to allow integrated barcodes for First-Class Mail parcels) to read as follows:]

c. A single integrated barcode may be used by Delivery Confirmation electronic option mailers who choose to combine Delivery Confirmation or Signature Confirmation service with insurance. Mailers printing their own barcodes and using the electronic option must meet the specifications in S918, S919, and Publication 91 with these modifications:

(1) The text above the barcode must identify the other service requested.

(2) The service type code in the barcode must identify the class of mail and/or type of special service combined with Delivery Confirmation or Signature Confirmation.

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D Deposit, Collection, and Delivery

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D200 Periodicals

D210 Basic Information

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3.0 EXCEPTIONAL DISPATCH

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3.4 Destination Rates

[Amend 3.4 by removing the first sentence and revising the remaining sentence to read as follows:]

Copies of Periodicals publications deposited under exceptional dispatch may be eligible for and claimed at the destination sectional center facility (DSCF) or destination delivery unit

(DDU) rates if the applicable standards in E250 are met.

* * * * *

4.0 DEPOSIT AT AMF

4.1 General

[Amend 4.1 by deleting the reference to SCF rates to read as follows:]

A publisher that airfreights copies of a Periodicals publication to an airport mail facility (AMF) must be authorized additional entry at the verifying office (i.e., the post office where the copies are presented for postal verification). Postage must be paid at that office unless an alternative postage payment method is authorized. Copies presented at an AMF may be eligible for the delivery unit rate, subject to the applicable standards.

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D230 Additional Entry

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2.0 DISTRIBUTION PLAN

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[Remove 2.2, Contingency Entries, and remove the title ''2.1 Basic Standards.'']

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4.0 USE OF ENTRY

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[Remove 4.6, Contingency Entry, and redesignate 4.7 as 4.6.]

* * * * *

D500 Express Mail

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1.0 SERVICE OBJECTIVES AND REFUND CONDITIONS

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1.6 Postage Not Refunded

[Revise 1.6 to add the additional limitations for Express Mail refunds to read as follows:]

Postage is not refunded if an item is delayed because of an incorrect ZIP Code or address, an item was improperly detained for law enforcement purposes, forwarding or return service was provided after the item was made available for claim, delivery was attempted within the times required for the specific service; delay or cancellation of flights, strike or work stoppage; or as authorized by USPS headquarters when delay was caused by:

a. Governmental action beyond the control of the USPS or air carriers.

b. War, insurrection, or civil disturbance.

c. Breakdown of a substantial portion of the USPS transportation network resulting from events or factors outside the control of the USPS.

d. Acts of God.

Attempted delivery occurs under any of these situations when the delivery is physically attempted, but cannot be made; the shipment is available for delivery, but the addressee made a written request that the shipment be held for a specific day or days; the delivery employee discovers that the shipment is undeliverable as addressed before leaving on the delivery route.

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E Eligibility

E000 Special Eligibility Standards

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E070 Mixed Classes

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2.0 ATTACHMENTS OF DIFFERENT CLASSES

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2.2 Rate Qualification

If a Periodicals, Standard Mail, or Package Services host piece qualifies for:

* * * * *

[Amend 2.2d by revising the first sentence and removing the second sentence to read as follows:]

d. A destination rate (DDU, DSCF, DADC, or DBMC), a Standard Mail attachment is eligible for the comparable destination entry rate. The attachment need not meet the volume standard that would apply if mailed separately. A rate including a destination entry discount may not be claimed for an attachment unless a similar rate is available and claimed for the host piece.

* * * * *

E100 First-Class Mail

E110 Basic Standards

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[Revise 3.0 to read as follows:]

3.0 CARD RATE

To be eligible for a card rate, a stamped card, postcard, and each part of a double (reply) card must meet the physical standards in C100. The reply half of a double card need not bear postage when originally mailed, but it must bear postage at the applicable rate when returned, unless prepared with a business reply format (S922) or a merchandise return service label (S923.5.4).

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E120 Priority Mail

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2.0 RATES

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2.2 Flat-Rate Envelope

[Amend 2.2 by changing ''2-pound'' to ''1-pound'' to read as follows:]

Any amount of material that can be mailed in the special flat-rate envelope available from the USPS is subject to the 1-pound Priority Mail rate, regardless of the actual weight of the mailpiece.

* * * * *

2.4 Keys and Identification Devices

[Amend 2.4 to show that the 2-pound rate is a zoned rate to read as follows:]

Keys and identification devices (e.g., identification cards or uncovered identification tags) that weigh more than 13 ounces but not more than 1 pound are returned at the 1-pound Priority Mail rate plus the fee shown in R100.10.0. Keys and identification devices weighing more than 1 pound but not more than 2 pounds are mailed at the 2-pound Priority Mail zone rate plus the fee in R100.10.0. The key or identification device must bear, contain, or have securely attached the name and complete address of a person, organization, or concern, with instructions to return the key or identification device to that address and a statement guaranteeing payment of postage due on delivery.

E130 Nonautomation Rates

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2.0 SINGLE-PIECE RATE

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2.2 Keys and Identification Devices

[Amend 2.2 by adding the reference to R100.10.0 to read as follows:]

Keys and identification devices (e.g., identification cards or uncovered identification tags) that weigh 13 ounces or less are mailed at the applicable single-piece letter rate plus the fee in R100.10.0. The keys and identification devices must bear, contain, or have securely attached the name and complete address of a person, organization, or concern, with instructions to return the piece to that address and a statement guaranteeing payment of postage due on delivery.

* * * * *

[Add new 2.4 to show that letter-size pieces may be subject to the nonmachinable surcharge to read as follows:]

2.4 Nonmachinable Surcharge—Letter-Size Pieces

The nonmachinable surcharge in R100.11.0 applies to letter-size pieces:

a. That weigh 1 ounce or less and meet one or more of the nonmachinable criteria in C050.2.2. Pieces mailed at the

card rate are not subject to the nonmachinable surcharge.

b. For which the mailer chooses the manual only (''do not automate'') option. This includes pieces mailed at the card rate.

[Add new 2.5 to show that flats may be subject to the nonmachinable surcharge to read as follows:]

2.5 Nonmachinable Surcharge—Nonletters

Nonletters (flats and parcels) that weigh 1 ounce or less are subject to the nonmachinable surcharge in R100.11.0 if any one of the following applies (see C010.1.1 for how to determine the length and height of a mailpiece):

a. The piece is greater than ¼-inch thick.

b. The length is more than 11½ inches or the height is more than 6⅛ inches.

c. The aspect ratio (length divided by height) is less than 1.3 or more than 2.5.

3.0 PRESORTED RATE

* * * * *

3.3 Address Quality

[Amend the first paragraph of 3.3 to clarify that signing a postage statement certifies that the mail meets the requirements for the rates claimed to read as follows:]

The move update standards for address quality are listed below. The mailer's signature on the postage statement certifies that this standard has been met when the corresponding mail is presented to the USPS:* * *

3.4 ZIP Code Accuracy

[Amend 3.4 to clarify that signing a postage statement certifies that the mail meets the requirements for the rates claimed to read as follows:]

All 5-digit ZIP Codes included in addresses on pieces claimed at the Presorted rate must be verified and corrected within 12 months before the mailing date using a USPS-approved method. The mailer's signature on the postage statement certifies that this standard has been met when the corresponding mail is presented to the USPS. This standard applies to each address individually, not to a specific list or mailing. An address meeting this standard may be used in mailings at any other rate to which the standard applies during the 12-month period after its most recent update.

[Add new 3.5 to show that letter-size pieces may be subject to the nonmachinable surcharge to read as follows:]

3.5 Nonmachinable Surcharge—Letter-Size Pieces

Letter-size pieces that weigh 1 ounce or less and meet one or more of the nonmachinable criteria in C050.2.2 are subject to the nonmachinable surcharge in R100.11.0. Pieces mailed at the card rate are not subject to the nonmachinable surcharge. Double cards that are not prepared in accordance with C810 are considered nonmachinable; they are not charged the surcharge but must be prepared according to the standards for nonmachinable pieces in M130.

[Add new 3.6 to show that flat-size pieces may be subject to the nonmachinable surcharge:]

3.6 Nonmachinable Surcharge—Nonletters

Nonletters (flats and parcels) that weigh 1 ounce or less are subject to the nonmachinable surcharge in R100.11.0 if any one of the following applies (see C010.1.1 for how to determine the length and height of a mailpiece):

a. The piece is greater than ¼-inch thick.

b. The length is more than 11½ inches or the height is more than 6⅛ inches.

c. The aspect ratio (length divided by height) is less than 1.3 or more than 2.5.

[Add new 3.7 to show that the nonmachinable surcharge applies to pieces where the mailer chooses the manual only option to read as follows:]

3.7 Manual Only Option

The nonmachinable surcharge in R100.11.0 applies to any letter-size piece (including card-rate pieces) for which a mailer chooses the manual only (''do not automate'') option.

[Remove 4.0, Nonstandard Surcharge.]

E140 Automation Rates

1.0 BASIC STANDARDS

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1.3 Address Quality

[Amend the first paragraph of 1.3 to clarify that signing a postage statement certifies the mail meets the requirements for the rates claimed to read as follows:]

The move update standards for address quality are listed below. The mailer's signature on the postage statement certifies that this standard has been met when the corresponding mail is presented to the USPS: * * *

1.4 Carrier Route Presort

[Amend 1.4 to clarify that signing a postage statement certifies the mail meets the requirements for the rates claimed to read as follows:]

Carrier route rates are available only for letter-size mail and only for those 5-digit ZIP Code areas identified with an ''A'' or ''B'' in the Carrier Route Indicators field of the USPS City State File used for address coding. Carrier route codes must be applied to mailings using CASS-certified software and the current USPS Carrier Route File scheme or another AIS product containing carrier route information, subject to A930 and A950. Carrier route and City State File information must be updated within 90 days before the mailing date. The mailer's signature on the postage statement certifies that this standard has been met when the corresponding mail is presented to the USPS.

* * * * *

[Remove 1.6, Nonstandard Surcharge.]

[Amend the title and text of 2.0 to reorganize rate application information for and to replace the basic rate with the AADC and mixed AADC rates to read as follows:]

2.0 RATE APPLICATION—CARDS AND LETTERS

Automation rates apply to each piece that is sorted under M810 into the corresponding qualifying groups:

a. Pieces in full carrier route trays, in carrier route groups of 10 or more pieces each placed in 5-digit carrier routes trays, or in carrier route packages of 10 or more pieces each placed in 3-digit carrier routes trays qualify for the carrier route rate. Preparation to qualify for the carrier route rate is optional and need not be done for all carrier routes in a 5-digit area.

b. Groups of 150 or more pieces in 5-digit or 5-digit scheme trays qualify for the 5-digit rate. Preparation to qualify for the 5-digit rate is optional and need not be done for all 5-digit or 5-digit scheme destinations.

c. Groups of 150 or more pieces in 3-digit or 3-digit scheme trays qualify for the 3-digit rate.

d. Groups of fewer than 150 pieces in origin 3-digit or origin 3-digit scheme trays and all pieces in AADC trays qualify for the AADC rate.

e. All pieces in mixed AADC trays qualify for the mixed AADC rate.

[Redesignate 2.2 and 2.3 into new 3.0 and revise to read as follows:]

3.0 RATE APPLICATION—FLATS AND OTHER NONLETTERS

3.1 Package-Based Preparation

Automation rates apply to each piece that is sorted under M820.2.0 or M910.1.0 into the corresponding qualifying groups:

a. Pieces in 5-digit packages of 10 or more pieces qualify for the 5-digit rate. Preparation to qualify for the 5-digit rate is optional and need not be done for all 5-digit destinations.

b. Pieces in 3-digit packages of 10 or more pieces qualify for the 3-digit rate.

c. Pieces in ADC packages of 10 or more pieces qualify for the ADC rate.

d. Pieces in mixed ADC packages qualify for the mixed ADC rate.

3.2 Tray-Based Preparation

Automation rates apply to each piece that is sorted under M820.4.0 into the corresponding qualifying groups:

a. Groups of 90 or more pieces in 5-digit trays qualify for the 5-digit rate. Preparation to qualify for the 5-digit rate is optional and need not be done for all 5-digit destinations.

b. Groups of 90 or more pieces in 3-digit trays qualify for the 3-digit rate.

c. Groups of fewer than 90 pieces in origin 3-digit trays and all pieces in ADC trays qualify for the ADC rate.

d. All pieces in mixed ADC trays qualify for the mixed ADC rate.

[Add new 3.3 to show that flats may be subject to the nonmachinable surcharge to read as follows:]

3.3 Nonmachinable Surcharge

Flats that weigh 1 ounce or less are subject to the nonmachinable surcharge in R100.11.0 if any one of the following applies (see C010.1.1 for how to determine the length and height of a mailpiece):

a. The piece is greater than ¼-inch thick.

b. The length is more than 11½ inches or the height is more than 6⅛ inches.

c. The aspect ratio (length divided by height) is less than 1.3 or more than 2.5.

* * * * *

E200 Periodicals

E210 Basic Standards

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E217 Basic Rate Eligibility

[Revise 1.0 to read as follows:]

1.0 OUTSIDE-COUNTY RATES

1.1 Description

Outside-County rates apply to copies of an authorized Periodicals publication mailed by a publisher or news agent that are not eligible for In-County rates. Outside-County rates consist of an addressed per piece charge, a zoned charge for the weight of the advertising portion of the publication, and a charge for the weight of the nonadvertising portion.

1.2 Nonrequester and Nonsubscriber Copies

For excess noncommingled mailings under E215, nonrequester and nonsubscriber copies are not eligible for Periodicals rates unless the publication is authorized under E212.2.0 and is not authorized to contain general advertising. Nonrequester and nonsubscriber copies in excess of the 10% allowance under E215 are subject to Outside-County rates when commingled with requester or subscriber copies, as appropriate.

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3.0 OUTSIDE-COUNTY SCIENCE-OF-AGRICULTURE RATES

* * * * *

3.3 Other Rates

[Amend 3.3 by adding the new destination ADC rate, removing the last sentence, and rearranging sentences two and three to read as follows:]

All Outside-County rates and discounts apply, except for separate rates for DDU, DSCF, DADC, and zones 1 & 2. Nonsubscriber copies are subject to E215. Each piece must meet the standards for the rates or discounts claimed.

[Remove 3.4, Nonadvertising Discount, and redesignate 3.5 as 3.4.]

3.4 Application Procedures

[Amend redesignated 3.4 by revising the third and last sentences to read as follows:]

The Science-of-Agriculture rate is available only after USPS authorization. An application or written request for Science-of-Agriculture rates must be filed at the publication's original entry post office. Application may be made by completing the relevant part of an application for Periodicals mailing privileges (Form 3500) or by filing for reentry (Form 3510) after Periodicals mailing privileges are authorized. The applicant must submit evidence to show eligibility under the corresponding standards.

* * * * *

5.0 DISCOUNTS

[Revise 5.0 by restructuring for clarity adding information on the new per piece pallet discount to read as follows:]

5.1 Nonadvertising

The nonadvertising discount applies to the Outside-County piece rate and is computed under P013.

5.2 Presort and Automation

Presort and automation discounts are available under E220, E230, and E240.

5.3 Destination Entry

Destination entry discounts are available under E250 for copies entered at specific USPS facilities.

5.4 Per Piece Pallet

The per piece pallet discount applies to each addressed piece of nonletter-size mail (flats and irregular parcels) prepared in packages on any pallet level. The discount does not apply to pallets weighing less than 250 pounds (except for overflow pallets) and is not available for pieces in sacks or trays on pallets.

5.5 Destination Entry Per Piece Pallet

In addition to the per piece pallet discount in 5.4, the destination entry per piece pallet discount applies to each addressed piece of nonletter-size mail (flats and irregular parcels) prepared in packages on any destination entry pallet. The discount does not apply to pallets weighing less than 250 pounds (except overflow pallets) and is not available for pieces in sacks or trays on pallets.

* * * * *

E220 Presorted Rates

1.0 BASIC INFORMATION

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1.3 ZIP Code Accuracy

[Amend 1.3 to clarify that signing a postage statement certifies that the mail meets the requirements for the rates claimed to read as follows:]

All 5-digit ZIP Codes in addresses on pieces claimed at the 5-digit, 3-digit, or basic rates must be verified and corrected within 12 months before the mailing date by a USPS-approved method. The mailer's signature on the postage statement certifies that this standard has been met when the corresponding mail is presented to the USPS. This standard applies to each address individually, not to a specific list or mailing. An address meeting this standard may be used in mailings at any other rate to which the standard applies during the 12-month period after its most recent update.

* * * * *

[Remove 3.0, Combining Multiple Publications or Editions.]

E230 Carrier Route Rates

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3.0 WALK-SEQUENCE DISCOUNTS

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3.4 Density Standards

[Amend 3.4a through 3.4e for clarity to read as follows:]

Walk-sequence rate mailings are subject to these density standards:

a. Density standards for walk-sequence rates apply to individual carrier routes. Pieces need not be sent to all carrier routes within a 5-digit delivery area.

b. Except under 3.4c, pieces eligible and claimed at the high density rate must meet the density requirement of at least 125 pieces for each carrier route.

c. Pieces may qualify for In-County high density rates when there are addressed pieces for a minimum of 25% of the total active possible deliveries on a carrier route. If a route contains addresses both within and outside the county, the number of pieces addressed to the entire carrier route is used to determine the 25% requirement. Only those pieces addressed to addresses within the county of original entry are eligible for the In-County high density rates.

d. Pieces eligible for and claimed at the saturation rate must be addressed to either 90% or more of the active residential addresses or 75% or more of the total number of active possible delivery addresses on each carrier route receiving saturation rate mail. Pieces using the simplified address format under A040 must be addressed to 100% of the total number of active possible delivery addresses.

e. More than one addressed piece per delivery address may be included in a high density rate mailing and may be counted for the density standard in 3.4b for the high density rate. Only one piece per delivery address may be counted toward the density standards for high density in 3.4c and for the saturation rate in 3.4d.

[Remove 4.0, Combining Multiple Publications or Editions.]

E240 Automation Rates

1.0 BASIC STANDARDS

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1.2 Enclosed Reply Cards and Envelopes

[Amend 1.2 to clarify that signing a postage statement certifies that the mail meets the requirements for the rates claimed to read as follows:]

All letter-size reply cards and envelopes provided as enclosures in automation rate Periodicals and addressed for return to a domestic delivery address must meet the standards in C810 for enclosed reply cards and envelopes. The mailer's signature on the postage statement certifies that this standard has been met when the corresponding mail is presented to the USPS.

* * * * *

E250 Destination Entry

[Redesignate 1.0 and 2.0 as 2.0 and 3.0, respectively. Add new 1.0 for the new destination ADC rate to read as follows:]

1.0 DADC RATE

1.1 Eligibility

Addressed pieces not eligible for In-County rates can qualify for the destination area distribution center (DADC) rates if the copies are addressed for delivery in the same DADC service area, are deposited at the DADC or a postal-designated facility, and are placed in any container level except a mixed ADC sack or tray, a mixed AADC tray, or a mixed ADC pallet.

1.2 Rates

DADC rates include a pound rate and a per piece discount off the per piece rate. Pieces claimed at DADC rates also must meet the standards for any discount or rate claimed and postage payment method used.

1.3 Documentation

Subject to P012, the publisher must be able to show compliance with 1.1 and 1.2 (e.g., by package, sack, tray, or pallet destination) and the number of pieces by presort level for each 3-digit ZIP Code destination eligible for the DADC rates. Documentation of postage is not required if each piece in the mailing is of identical weight and the pieces are separated when presented for acceptance by rate, zone (including separation by In-County and Outside-County rates), and entry discount (i.e., DDU, DSCF, and DADC).

2.0 DSCF RATE

2.1 Eligibility

[Amend redesignated 2.1 to reflect that DSCF mail must be deposited at the DSCF or a postal-designated facility and to add ineligible container information to read as follows:]

Addressed pieces not eligible for In-County rates can qualify for the destination sectional center facility (DSCF) rates if the copies are addressed for delivery within the facility service area, are deposited at the DSCF, a facility listed in L006, or a postal-designated facility, and are placed in any container level except an ADC (unless the SCF and ADC are co-located) or mixed ADC sack or tray, an AADC (unless the SCF and AADC are co-located) or mixed AADC tray, or an ADC or mixed ADC pallet.

* * * * *

[Add new E260 (former G094) and include minor editorial changes to read as follows:]

E260 Ride-Along

Summary

E260 describes the standards for the Periodicals Ride-Along classification.

1.0 BASIC ELIGIBILITY

1.1 Description

The standards in E260 apply to Standard Mail material paid at the Periodicals Ride-Along rate that is attached to or enclosed with Periodicals mail. All Periodicals subclasses may enclose eligible matter at the Ride-Along rate.

1.2 Basic Standards

Only one Ride-Along piece may be attached to or enclosed with an individual copy of Periodicals mail. If more than one Ride-Along piece is attached or enclosed, mailers have the option of paying Standard Mail postage for all the enclosures or attachments, or paying the Ride-Along rate for the first attachment or enclosure and Standard Mail rates for subsequent attachments and enclosures. Ride-Along pieces eligible under E260 must be eligible as Standard Mail and must:

a. Not exceed any dimension of the host publication.

b. Not exceed 3.3 ounces and must not exceed the weight of the host publication.

c. Not obscure the title of the publication or the address label.

1.3 Physical Characteristics

The host Periodicals piece and the Ride-Along piece must meet the following physical characteristics:

a. Construction:

(1) Bound publications. If contained within the host publication the Ride-Along piece must be securely affixed to prevent detachment during postal processing. If loose, the Ride-Along piece and publication must be enclosed together in a full wrapper, polybag, or envelope.

(2) Unbound publications. If contained within the host publication the Ride-Along piece must be securely affixed to prevent detachment during postal processing. A loose Ride-Along enclosure with an unbound publication must be combined with and inserted within the publication. If the Ride-Along piece is included outside the unbound publication, the publication and the Ride-Along piece must be enclosed in a full wrapper, polybag, or envelope.

b. A Periodicals piece (automation and nonautomation) with the addition

of a Ride-Along piece must remain uniformly thick and remain in the same processing category (flat or letter) as before the addition of the Ride-Along attachment or enclosure.

c. A Periodicals piece with a Ride-Along piece that claims automation discounts must maintain the same processing category and, for flat-size mail, the flat sorting machine criteria under C820 (FSM 881 flat, or FSM 1000 flat) and automation compatibility (C810 and C820), as before the addition of the Ride-Along attachment or enclosure. For example:

(1) If, due to the inclusion of a Ride-Along piece, an FSM 881-compatible host piece can no longer be processed on the FSM 881, but must be processed on an FSM 1000, then that piece must pay either the appropriate Periodicals nonautomation rate plus the Ride-Along rate, or the appropriate Periodicals automation rate for the host piece and the appropriate Standard Mail rate for the attachment or enclosure.

(2) If, due to the inclusion of a Ride-Along piece, an FSM 1000-compatible host piece can no longer be processed on the FSM 1000, but must be processed manually, then that piece must pay either the appropriate Periodicals nonautomation rate plus the Ride-Along rate, or the appropriate Periodicals nonautomation rate for the host piece and the appropriate Standard Mail rate for the attachment or enclosure.

(3) If, due to the inclusion of a Ride-Along piece, an automation letter host piece can no longer be processed as an automation letter, then that piece must pay the appropriate Periodicals nonautomation rate plus the Ride-Along rate, or the appropriate Periodicals nonautomation rate for the host piece and the appropriate Standard Mail rate for the attachment or enclosure.

1.4 Marking

The marking ''Ride-Along Enclosed'' must be placed on or in the host publication if it contains an enclosure or attachment paid at the Ride-Along rate. If placed on the outer wrapper, polybag, envelope, or cover of the host publication, the marking must be set in type no smaller than any used in the required ''POSTMASTER: Send change of address * * *'' statement. If placed in the identification statement, the marking must meet the applicable standards. The marking must not be on or in copies not accompanied by a Ride-Along attachment or enclosure.

* * * * *

E500 Express Mail

1.0 STANDARDS FOR ALL EXPRESS MAIL

* * * * *

1.6 Flat-Rate Envelope

[Amend 1.6 by changing ''2-pound'' to ''½-pound'' to read as follows:]

Material mailed in the special flat-rate envelope available from the USPS is subject to the postage rate for a ½-pound piece at the service level requested by the customer, regardless of the actual weight of the piece.

* * * * *

E600 Standard Mail

E610 Basic Standards

* * * * *

8.0 Preparation

Each Standard Mail mailing is subject to these general standards:

* * * * *

[Amend 8.0e to remove references to upgradable preparation to read as follows:]

e. Each piece must bear the addressee's name and delivery address, including the correct ZIP Code or ZIP+4 code, unless an alternative address format is used subject to A040. Detached address labels may be used subject to A060.

* * * * *

E620 Presorted Rates

1.0 BASIC STANDARDS

1.1 General

All pieces in a Presorted Regular or Presorted Nonprofit Standard Mail mailing must:

* * * * *

[Amend 1.1c to remove references to upgradable mailings to read as follows:]

c. Bear a delivery address that includes the correct ZIP Code or ZIP+4 code, unless an alternative address format is used subject to A040. Pieces prepared with detached address labels are subject to additional standards in A060.

* * * * *

1.4 ZIP Code Accuracy

[Amend 1.4 to clarify that signing a postage statement certifies the mail meets the requirements for the rates claimed to read as follows:]

All 5-digit ZIP Codes included in addresses on pieces claimed at Presorted regular and Presorted Nonprofit rates must be verified and corrected within 12 months before the mailing date, using a USPS-approved method. The mailer's signature on the postage statement certifies that this standard has been met when the corresponding mail is presented to the USPS. This standard applies to each address individually, not to a specific list or mailing. An address meeting this standard may be used in mailings at any other rates to which the standard applies during the 12-month period after its most recent update.

2.0 RATES

[Amend 2.0 by combining 2.0a and 2.0b into new 2.0a and renumbering the remaining items accordingly. This is revised to remove references to upgradable mailings.]

Presorted Regular or Nonprofit Standard Mail rates apply to Regular or Nonprofit Standard Mail letters, flats, and machinable and irregular parcels weighing less than 16 ounces that are prepared under M045, M610, or (flat-size mail only) under M910, M920, M930, or M940. Basic Presorted rates apply to pieces that do not meet the standards for the 3/5 Presorted rates described below. Basic rate and 3/5 rate pieces prepared as part of the same mailing are subject to a single minimum volume standard. Pieces that do not qualify for the 3/5 rate must be paid at the basic rate and prepared accordingly. Pieces may qualify for the 3/5 rate if they are presented:

a. In quantities of 150 or more letter-size pieces for a single 3-digit area, prepared in 5-digit or 3-digit trays.

* * * * *

[Redesignate 4.0, Barcoded Discount, as 5.0, and add new 4.0 to show that some Presorted letters are subject to the nonmachinable surcharge to read as follows:]

4.0 NONMACHINABLE SURCHARGE

The nonmachinable surcharge in R600.6.0 applies to any letter-size piece:

a. That weighs 3.3 ounces or less and meets one or more of the nonmachinable criteria in C050.2.2.

b. For which a mailer chooses the manual only (''do not automate'') option.

* * * * *

E630 Enhanced Carrier Route Rates

[Revise E630 in its entirety to reorganize and clarify the current standards and to add standards that require letter-size pieces claimed at high density or saturation rates to be automation-compatible and have delivery point barcodes to read as follows.]

1.0 BASIC STANDARDS

1.1 General

All pieces in an Enhanced Carrier Route Standard Mail mailing must:

a. Meet the basic standards for Standard Mail in E610.

b. Be part of a single mailing of at least 200 pieces or 50 pounds of pieces of Enhanced Carrier Route Standard Mail. Automation basic carrier route rate pieces are subject to a separate 200-piece or 50-pound minimum volume standard and may not be included in the same mailing as other Enhanced Carrier Route mail. Regular and Nonprofit mailings must meet separate minimum volumes.

c. Be sorted to carrier routes, marked, and documented under M045 (if palletized), M620, M920, M930, or M940.

d. Have a complete delivery address or an alternate address format.

1.2 Maximum Size

Enhanced Carrier Route rate mail may not be more than 11¾ inches high, 14 inches long, or ¾-inch thick. Exception: Merchandise samples with detached address labels (DALs) may exceed these dimensions if the labels meet the standards in A060.

1.3 Preparation

Preparation to qualify for any Enhanced Carrier Route rate is optional and need not be performed for all carrier routes in a 5-digit area. An Enhanced Carrier Route mailing may include pieces at basic, high density, and saturation Enhanced Carrier Route rates. Automation basic carrier route rate pieces must be prepared as a separate mailing (see E640).

1.4 Carrier Route Information

Except for mailings prepared with a simplified address under A040, a carrier route code must be applied to each piece in the mailing using CASS-certified software and the current USPS Carrier Route File scheme, hard copy Carrier Route Files, or another AIS product containing carrier route information, subject to A930 and A950. Carrier route information must be updated within 90 days before the mailing date.

2.0 BASIC RATES

2.1 All Pieces

All pieces mailed at basic rates must be prepared in walk sequence or in line-of-travel (LOT) sequence according to LOT schemes prescribed by the USPS (see M050).

2.2 Letter-Size Pieces

Basic rates apply to each piece sorted under M045 or M620 and in a full carrier route tray or in a carrier route package of 10 or more pieces placed in a 5-digit carrier routes or 3-digit carrier routes tray.

2.3 Flat-Size Pieces

Basic rates apply to each piece in a carrier route package of 10 or more pieces that is:

a. Palletized under M045, M920, M930, or M940.

b. Placed in a carrier route sack containing at least 125 pieces or 15 pounds of pieces.

c. Placed in a merged 5-digit scheme, 5-digit scheme carrier routes, merged 5-digit, or 5-digit carrier routes sack.

2.4 Irregular Parcels

Basic rates apply to each piece in a carrier route sack or carton containing at least 125 pieces or 15 pounds of pieces, or in a 5-digit carrier routes sack or carton. DALs must be in carrier route packages of 10 or more pieces and prepared under A060.

3.0 HIGH DENSITY RATES

3.1 All Pieces

All pieces mailed at high density rates must:

a. Be prepared in walk sequence according to schemes prescribed by the USPS (see M050).

b. Meet the density requirement of at least 125 pieces for each carrier route. Multiple pieces per delivery address can count toward this density standard.

3.2 Letter-Size Pieces

High density rates apply to each piece that is automation-compatible according to C810, has a delivery point barcode under C840, and is in a full carrier route tray or in a carrier route package of 10 or more pieces placed in a 5-digit carrier routes or 3-digit carrier routes tray. Pieces bearing a simplified address do not need to meet the standards in C810 and are not required to have a delivery point barcode. Pieces not meeting the standards in this section may be mailed at the high density nonletter rate or at the basic letter rate.

3.3 Discount for Heavy Letters

Pieces that otherwise qualify for the high density letter rate and weigh more than 3.3 ounces but not more than 3.5 ounces pay postage equal to the nonletter piece/pound rate and receive a discount equal to the corresponding high density nonletter piece rate (3.3 ounces or less) minus the corresponding high density letter piece rate (3.3 ounces or less). If claiming a destination entry rate, the discount is calculated using the corresponding rates.

3.4 Flat-Size Pieces

High density rates apply to each piece in a carrier route package of 10 or more pieces that is:

a. Palletized under M045, M920, M930, or M940.

b. Placed in a carrier route sack containing at least 125 pieces or 15 pounds of pieces.

c. Placed in a merged 5-digit scheme, 5-digit scheme carrier routes, merged 5-digit, or 5-digit carrier routes sack.

3.5 Irregular Parcels

High density rates apply to each piece in a carrier route sack or carton containing at least 125 pieces or 15 pounds of pieces, or in a 5-digit carrier routes sack or carton. DALs must be in carrier route packages of 10 or more pieces and prepared under A060.

4.0 SATURATION RATES

4.1 All Pieces

All pieces mailed at saturation rates must:

a. Be prepared in walk sequence according to schemes prescribed by the USPS (see M050).

b. Meet the density requirement of at least 90% or more of the active residential addresses or 75% or more of the total number of active possible delivery addresses on each carrier route receiving this mail. Pieces bearing a simplified address must be addressed to 100% of the total number of active possible deliveries. Multiple pieces per delivery address do not count toward this density standard. Sacks with fewer than 125 pieces or less than 15 pounds of pieces may be prepared to a carrier route when the saturation rate is claimed for the contents and the applicable density standard is met.

4.2 Letter-Size Pieces

Saturation rates apply to each piece that is automation compatible according to C810, has a delivery point barcode under C840, and is in a full carrier route tray or in a carrier route package of 10 or more pieces placed in a 5-digit carrier routes or 3-digit carrier routes tray. Pieces bearing a simplified address do not need to meet the standards in C810 and are not required to have a delivery point barcode. Pieces not meeting the standards in this section may be mailed at the high density nonletter rate or at the basic letter rate.

4.3 Discount for Heavy Letters

Pieces that otherwise qualify for the saturation letter rate and weigh more than 3.3 ounces but not more than 3.5 ounces pay postage equal to the nonletter piece/pound rate and receive a discount equal to the corresponding saturation nonletter piece rate (3.3 ounces or less) minus the corresponding saturation letter piece rate (3.3 ounces or less). If claiming a destination entry

rate, the discount is calculated using the corresponding rates.

4.4 Flat-Size Pieces

Saturation rates apply to each piece in a carrier route package of 10 or more pieces that is:

a. Palletized under M045, M920, M930, or M940.

b. Placed in a carrier route sack containing at least 125 pieces or 15 pounds of pieces.

c. Placed in a merged 5-digit scheme, 5-digit scheme carrier routes, merged 5-digit, or 5-digit carrier routes sack.

4.5 Irregular Parcels

Saturation rates apply to each piece in a carrier route sack or carton containing at least 125 pieces or 15 pounds of pieces, or in a 5-digit carrier routes sack or carton. DALs must be in carrier route packages of 10 or more pieces and prepared under A060.

5.0 RESIDUAL SHAPE SURCHARGE

Any piece that is prepared as a parcel or is not letter-size or flat-size as defined in C050 is subject to the residual shape surcharge.

E640 Automation Rates

1.0 REGULAR AND NONPROFIT RATES

* * * * *

1.2 Enclosed Reply Cards and Envelopes

[Amend 1.2 to clarify that signing a postage statement certifies the mail meets the requirements for the rates claimed to read as follows:]

All letter-size reply cards and envelopes (business reply, courtesy reply, and meter reply mail) provided as enclosures in automation Regular or Nonprofit Standard Mail, and addressed for return to a domestic delivery address, must meet the standards in C810 for enclosed reply cards and envelopes. The mailer's signature on the postage statement certifies that this standard has been met when the corresponding mail is presented to the USPS.

1.3 Rate Application—Letters-Size Pieces

[Amend 1.3 to replace the basic rate with the AADC and mixed AADC rates to read as follows:]

Automation rates apply to each piece that is sorted under M810 into the corresponding qualifying groups:

a. Groups of 150 or more pieces in 5-digit or 5-digit scheme trays qualify for the 5-digit rate. Preparation to qualify for that rate is optional and need not be done for all 5-digit or 5-digit scheme destinations.

b. Groups of 150 or more pieces in 3-digit or 3-digit scheme trays qualify for the 3-digit rate.

c. Groups of fewer than 150 pieces in origin or entry 3-digit or 3-digit scheme trays and groups of 150 or more pieces in AADC trays qualify for the AADC rate.

d. All pieces in mixed AADC trays qualify for the mixed AADC rate.

[Redesignate 1.4, Rate Application—Flats, as 1.5. Add new 1.4 for heavy automation letters to read as follows:]

1.4 Discount for Heavy Automation Letters

Automation letters that weigh more than 3.3 ounces but not more than 3.5 ounces pay postage equal to the automation piece/pound rate and receive a discount equal to the corresponding automation nonletter piece rate (3.3 ounces or less) minus the corresponding automation letter piece rate (3.3 ounces or less). If claiming a destination entry rate, the discount is calculated using the corresponding rates.

* * * * *

2.0 ENHANCED CARRIER ROUTE RATES

* * * * *

[Add new 2.6 to include the discount for ECR automation basic letters that weigh between 3.3 and 3.5 ounces to read as follows:]

2.6 Discount for Heavy Letters

Pieces that otherwise qualify for the ECR automation basic rate and weigh more than 3.3 ounces but not more than 3.5 ounces pay postage equal to the ECR regular basic nonletter piece/pound rate and receive a discount equal to the regular basic nonletter piece rate (3.3 ounces or less) minus the automation basic letter piece rate. If claiming a destination entry rate, the discount is calculated using the corresponding rates.

E700 Package Services

E710 Basic Standards

* * * * *

E712 Bound Printed Matter

1.0 BASIC STANDARDS

1.1 Description

* * * * *

[Amend 1.1b by adding a new last sentence to read as follows:]

b. Weigh no more than 15 pounds. Pieces might be subject to other minimum weights or dimensions based on the standards for specific rates.

* * * * *

[Remove 1.4, POSTNET Barcodes on Flats.]

2.0 RATES

BPM rates are based on the weight of a single addressed piece or 1 pound, whichever is higher, and the zone (where applicable) to which the piece is addressed. Rate categories are as follows:

* * * * *

[Amend the heading of 2.0d by adding ''Machinable Parcels'' and revise the text to read as follows:]

d. Barcoded Discount—Machinable Parcels. The barcoded discount applies only to BPM machinable parcels (C050.4.1) that bear a correct, readable barcode under C850 for the ZIP Code of the delivery address and are part of a single-piece rate mailing of 50 or more BPM parcels or are part of a presorted rate mailing of at least 300 BPM parcels prepared under M045 and M720. The barcoded discount is not available for parcels mailed at Presorted DDU or DSCF rates, or for Presorted DBMC rate mailings entered at an ASF other than the Phoenix, AZ, ASF. Carrier route rate mail is not eligible for the barcoded discount.

[Add new item 2.0e to read as follows:]

e. Barcoded Discount—Flats. The barcoded discount applies only to BPM flats that bear a correct, readable ZIP+4 or delivery point barcode (DPBC) barcode under C840 for the ZIP+4 code, or numeric DPBC of the delivery address. These pieces must be part of a presort rate mailing of at least 300 BPM flats prepared under M045 and M820 or part of a single-piece rate mailing of 50 or more pieces. The barcoded discount is not available for flats mailed at presorted DDU rates or carrier route rates. To qualify for the barcoded discount, the flat-size piece must meet the flat sorting machine requirements under C820.2.0.

3.0 ADDITIONAL STANDARDS FOR PRESORTED RATES

3.1 ZIP Code Accuracy

[Amend 3.1 to clarify that signing a postage statement certifies that the mail meets the requirements for the rates claimed to read as follows:]

All 5-digit ZIP Codes included in addresses on pieces claimed at presorted rates must be verified and corrected within 12 months before the mailing date using a USPS-approved method. The mailer's signature on the postage statement certifies that this standard has been met when the

corresponding mail is presented to the USPS. This standard applies to each address individually, not a specific list or mailing. An address meeting this standard may be used in mailings at any other rates to which the standard applies during the 12-month period after its most recent update.

[Redesignate current 3.2 as 3.3 and add new 3.2 to show CASS certification for automation rate mailings to read as follows:]

3.2 CASS Certification

Pieces claimed at automation rates for flats must meet the address quality and coding standards in A800 and A950.

3.3 Preparation

[Amend redesignated 3.3 by adding reference to flats to read as follows:]Pieces claiming the Presorted rates must be prepared under M045 or M722 or, for flats claiming the barcode discount under M820.

* * * * *

E713 Media Mail

[Redesignate former 2.0 as new 1.0:]

[Redesignate former 1.0 as new 2.0 and revise to read as follows:]

2.0 RATES

Media Mail rates are based on the weight of the piece without regard to zone.

The rate categories and discounts are as follows:

a. Single-Piece Rate. The single-piece rate applies to pieces not mailed at a 5-digit or basic rate.

b. 5-Digit Presort Rate. The 5-digit rate applies to pieces that meet the additional requirements in 3.0 and are prepared and presorted to 5-digit scheme or 5-digit destinations as specified in M730 or M041 and M045.

c. Basic Presort Rate. The basic rate applies to pieces that meet the additional requirements in 3.0 and are prepared and presorted as specified in M730 or M041 and M045.

d. Barcoded Discount. The barcoded discount applies to Media Mail machinable parcels (see C050) that are included in a mailing of at least 50 pieces of Media Mail. The pieces must be entered either at single-piece rates or basic rates and bear a correct, readable barcode for the ZIP Code shown in the delivery address as required by C850. The barcoded discount is not available for pieces mailed at 5-digit rates.

[Revise the title and text of 3.0 in its entirety to read as follows:]

3.0 ADDITIONAL STANDARDS FOR PRESORTED RATES

3.1 Basic Information

A presorted Media Mail mailing must contain a minimum of 300 pieces claimed at any combination of 5-digit and basic rates. Those pieces in the mailing that meet the 5-digit presort requirements are eligible for the 5-digit presort rate and those pieces that meet the basic presort requirements are eligible for the basic rates, subject to the preparation standards in M730 or M045. The size and content of each piece in the mailing does not need to be identical. Nonidentical pieces may be merged, sorted together, and presented as a single mailing either with postage paid with a permit imprint if authorized by Business Mailer Support (BMS), USPS headquarters, or with the correct postage affixed to each piece in the mailing.

3.2 5-Digit Rate

To qualify for the 5-digit rate, a piece must be prepared and sorted to either 5-digit scheme and 5-digit sacks under M730 or to 5-digit scheme and 5-digit pallets under M045. All logical 5-digit packages on pallets must contain at least 10 pieces. Nonmachinable parcels may qualify for the 5-digit rate if prepared to preserve sortation by 5-digit ZIP Code as prescribed by the postmaster of the mailing office.

3.3 Basic Rate

All pieces prepared and sorted under M730 or M045 that are not eligible for the 5-digit rate qualify for the basic rate. Nonmachinable parcels may qualify for the basic rate if prepared to preserve sortation by BMC as prescribed by the postmaster of the mailing office.

[Redesignate former 3.2 as new 3.4 to read as follows:]

3.4 Mailing Fee

A mailing fee must be paid once each 12-month period at each post office of mailing by or for any person who mails at the presorted Media Mail rates. The fee may be paid in advance only for the next 12-month period and only during the last 60 days of the current service period. The fee charged is that in effect on the day of payment.

[Remove former 3.5 and 3.6.]

E714 Library Mail

[Redesignate former 2.0 as new 1.0: revise title to read as follows:]

1.0 BASIC STANDARDS

1.1 Sender, Recipient, and Contents

[Amend 1.1 by revising the last sentence to read as follows:]

Each piece must show in the address or return address the name of a school, college, university, public library, museum, or herbarium or the name of a nonprofit religious, education, scientific, philanthropic (charitable), agricultural, labor, veterans, or fraternal organization or association. For Library Mail standards, these nonprofit organizations are defined in E670. Only the articles described in 1.2 and 1.3 may be mailed at the Library Mail rate.

* * * * *

1.4 Enclosures in Books and Sound Recordings

[Amend 1.4 by changing the references 2.4a and 2.4b to 1.4a and 1.4b, respectively, to read as follows:]

Books and sound recordings mailed at the Library Mail rate may contain these enclosures as well as the additions and enclosures permitted under E710:

a. Either one envelope or one addressed postcard. If also serving as an order form, the envelope or card may be in addition to the order form permitted by 1.4b.

b. One order form. If also serving as an envelope or postcard, the order form may be in addition to the envelope or card permitted by 1.4a.

c. With books, announcements of books in book pages or as loose enclosures. These announcements must be incidental and exclusively devoted to books, without extraneous advertising of book-related materials or services. Announcements may fully describe the conditions and methods of ordering books (such as by membership in book clubs) and may contain ordering instructions for use with either single order form permitted in 1.4b.

d. With sound recordings, announcements of sound recordings on title labels, on protective sleeves, on the carton or wrapper, or on loose enclosures. These announcements of sound recordings must be incidental and exclusively devoted to sound recordings. They may not contain extraneous advertising of recording-related materials or services. Announcements may fully describe the conditions and methods of ordering sound recordings (such as by membership in sound recording clubs) and may contain ordering instructions for use with the single order form permitted in 1.4b.

* * * * *

[Redesignate former 1.0 as new 2.0 and revise to read as follows:]

2.0 RATES

Library Mail rates are based on the weight of the piece without regard to

zone. The rate categories and discounts are as follows:

a. Single-Piece Rate. The single-piece rate applies to pieces not mailed at a 5-digit or basic rate.

b. 5-Digit Presort Rate. The 5-digit rate applies to pieces that meet the additional requirements of 3.0 and are prepared and presorted to 5-digit scheme and 5-digit destinations as specified in M740 or M041 and M045.

c. Basic Presort Rate. The basic rate applies to pieces that meet the additional requirement in 3.0 and are prepared and presorted as specified in M740 or M041 and M045.

d. Barcoded Discount. The barcoded discount applies to Library Mail machinable parcels (see C050) that are included in a mailing of at least 50 pieces of Library Mail. The pieces must be entered either at single-piece rates or basic rates and bear a correct, readable barcode for the ZIP Code shown in the delivery address as required by C850. The barcoded discount is not available for pieces mailed at 5-digit rates.

[Revise the title and text of 3.0 in its entirety to read as follows:]

3.0 ADDITIONAL STANDARDS FOR PRESORT RATES

3.1 Basic Information

A presorted Library Mail mailing must contain a minimum of 300 pieces claimed at any combination of 5-digit and basic rates. Those pieces in the mailing that meet the 5-digit presort requirements are eligible for the 5-digit presort rate, and those pieces that meet the basic presort requirements are eligible for the basic rate, subject to the preparation standards in M740 or M045. The size and content of each piece in the mailing does not need to be identical. Nonidentical pieces may be merged, sorted together, and presented as a single mailing either with postage paid with a permit imprint if authorized by Business Mailer Support (BMS), USPS headquarters, or with the correct postage affixed to each piece in the mailing.

3.2 5-Digit Rate

To qualify for the 5-digit rate, a piece must be prepared and sorted to either 5-digit scheme and 5-digit sacks under M740 or to 5-digit scheme and 5-digit pallets under M045. All logical 5-digit packages on pallets must contain at least 10 pieces. Nonmachinable parcels may qualify for the 5-digit rate if prepared to preserve sortation by 5-digit ZIP Code as prescribed by the postmaster of the mailing office.

3.3 Basic Rate

All pieces prepared and sorted under M740 or M045 that are not eligible for the 5-digit rate qualify for the basic rate. Nonmachinable parcels may qualify for the basic rate if prepared to preserve sortation by BMC as prescribed by the postmaster.

[Redesignate former 3.2 as new 3.4 to read as follows:]

3.4 Mailing Fee

A mailing fee must be paid once each 12-month period at each post office of mailing by or for any person who mails at the presorted Library Mail rates. The fee may be paid in advance only for the next 12-month period and only during the last 60 days of the current service period. The fee charged is that in effect on the day of payment.

[Remove 3.5 and 3.6.]

[Remove E715, Bulk Parcel Post.]

E750 Destination Entry

E751 Parcel Select

1.0 BASIC STANDARDS

1.1 Definitions

[Amend 1.1b by adding a sentence after the first one to read as follows:]

b. * * * Those 5-digit machinable parcels not required to be entered at a BMC under Exhibit 6.0 and all 3-digit nonmachinable parcels sorted to the 3-digit level and claimed at the DSCF rate must be deposited at an SCF listed in L005. * * *

* * * * *

1.4 DSCF and DDU Rates

For DSCF and DDU rates, pieces must meet the applicable standards in 1.0 through 6.0 and the following criteria:

[Amend 1.4a by adding ''5-digit scheme'' and ''5-digit Parcel Post;'' to read as follows:]

a. For DSCF rates, be part of a mailing of parcels sorted to 5-digit scheme or 5-digit destinations and deposited at a designated SCF under L005 (or at a BMC under Exhibit 6.0); addressed for delivery within the ZIP Code service area of that SCF under L005; and prepared under with M041, M045, or M710. Nonmachinable parcels sorted to 3-digit ZIP Code prefixes and claimed at a DSCF rate must be entered at a designated SCF under L005. * * *

* * * * *

2.0 PREPARATION

* * * * *

2.2 Containers

[Amend 2.2c, 2.2d, and 2.2e by adding ''3-digit sack'' after each occurrence of ''5-digit sack'' and adding ''3-digit pallet'' after each occurrence of ''5-digit pallet.'']

* * * * *

E752 Bound Printed Matter

* * * * *

3.0 DESTINATION SECTIONAL CENTER FACILITY (DSCF) RATES

* * * * *

[Amend the title and text of 3.2 to add eligibility standards for presorted automation flats to read as follows:]

3.2 Presorted and Automation Flats

Presorted flats and automation flats in sacks for the 5-digit, 3-digit, and SCF sort levels or on pallets at the 5-digit scheme and 5-digit, 3-digit, SCF, and ASF sort levels may claim DSCF rates. The mail must be entered at the appropriate facility under 3.1.

* * * * *

E753 Combining Package Services Parcels

[Amend 1.1 by replacing ''BMC rates'' with ''basic rates.'']

* * * * *

F Forwarding and Related Services

F000 Basic Services

F010 Basic Information

* * * * *

4.0 BASIC TREATMENT

4.1 General

[Amend 4.1 to remove references to nonstandard mail to read as follows:]

Mail that is undeliverable as addressed is forwarded, returned to the sender, or treated as dead mail, as authorized for the particular class of mail. Undeliverable-as-addressed mail is endorsed by the USPS with the reason for nondelivery as shown in Exhibit 4.1. All nonmailable pieces are returned to the sender.

* * * * *

5.0 CLASS TREATMENT FOR ANCILLARY SERVICES

* * * * *

5.2 Periodicals

Undeliverable Periodicals (including publications pending Periodicals authorization) are treated as described in the chart below and under these conditions:

* * * * *

[Amend 5.2e to show that the nonmachinable surcharge can be charged on Periodicals returned at First-Class Mail single-piece rates to read as follows:]

e. The publisher may request the return of copies of undelivered Periodicals by printing the endorsement ''Address Service Requested'' on the envelopes or wrappers, or on one of the outside covers of unwrapped copies, immediately preceded by the sender's name, address, and ZIP+4 or 5-digit ZIP Code. This endorsement obligates the publisher to pay return postage. Each returned piece is charged the single-piece First-Class Mail or Priority Mail rate applicable for the weight of the piece, plus the nonmachinable surcharge if it applies (see E130). When the address correction is provided incidental to the return of the piece, there is no charge for the correction.

* * * * *

5.3 Standard Mail

Undeliverable Standard Mail is treated as described in the chart below and under these conditions:

* * * * *

[Amend 5.3g to show that the nonmachinable surcharge is included in the calculation of the weighted fee for returned pieces to read as follows:]

g. A weighted fee is charged when an unforwardable or undeliverable piece is returned to the sender and the piece is endorsed ''Address Service Requested'' or ''Forwarding Service Requested.'' The weighted fee is the single-piece First-Class Mail or Priority Mail rate applicable for the weight of the piece, multiplied by 2.472 and rounded up to the next whole cent (if the computation yields a fraction of a cent), plus the nonmachinable surcharge if it applies (see E130). The weighted fee is computed (and rounded if necessary) for each piece individually. Using ''Address Service Requested'' or ''Forwarding Service Requested'' obligates the sender to pay the weighted fee on all returned pieces.

[Redesignate current 5.3h as 5.3i, and add new 5.3h to show that the First-Class Mail nonmachinable surcharge is charged on some returned pieces to read as follows:]

h. Returned pieces endorsed ''Return Service Requested,'' are charged the single-piece First-Class Mail or Priority Mail rate applicable for the weight of the piece, plus the nonmachinable surcharge if it applies (see E130).

* * * * *

6.0 ENCLOSURES AND ATTACHMENTS

6.1 Periodicals

[Amend 6.1 to show that the nonmachinable surcharge can be charged on Periodicals returned at First-Class Mail single-piece rates to read as follows:]

Undeliverable Periodicals (including publications pending Periodicals authorization) with a nonincidental First-Class Mail attachment or enclosure are returned at the single-piece First-Class Mail or Priority Mail rate applicable for the weight of the piece, plus the nonmachinable surcharge if it applies (see E130).

The weight of the attachment or enclosure is not included when computing the charges for return of the mailpiece. Undeliverable Periodicals (including publications pending Periodicals authorization) with an incidental First-Class Mail attachment or enclosure are treated as dead mail unless endorsed ''Address Service Requested.''

6.2 Standard Mail

[Amend 6.2 to show that the nonmachinable surcharge can be charged on Standard Mail returned at First-Class Mail single-piece rates to read as follows:]

Undeliverable, unendorsed Standard Mail with a nonincidental First-Class Mail attachment or enclosure is returned at the single-piece First-Class Mail or Priority Mail rate applicable for the weight of the piece, plus the nonmachinable surcharge if it applies (see E130). The weight of the First-Class Mail attachment or enclosure is not included when computing the charges for return of the mailpiece. Undeliverable, unendorsed Standard Mail with an incidental First-Class Mail attachment or enclosure is treated as dead mail.

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F030 Address Correction, Address Change, FASTforward, and Return Services

1.0 ADDRESS CORRECTION SERVICE

1.1 Purposes

[Add a new sentence after the first sentence to clarify the conditions under which address notices are provided to read as follows:]

* * * Address corrections and notices are not provided for customers who file a temporary change of address or for individuals at a business address (see F020.1.0). * * *

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G General Information

G000 The USPS and Mailing Standards

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G090 Experimental Classifications and Rates

G091 NetPost Mailing Online

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4.0 POSTAGE AND FEES

4.1 Postage

[Revise 4.1 to read as follows:]

Documents mailed during the experiment are eligible for the following rate categories only:

a. First-Class Mail automation mixed AADC rates.

b. First-Class Mail automation mixed ADC rates.

c. First-Class Mail single-piece rates.

d. Regular Standard Mail automation letters mixed AADC rates.

e. Regular Standard Mail automation flats basic rates.

f. Nonprofit Standard Mail automation letters mixed AADC rates.

g. Nonprofit Standard Mail automation flats basic rates.

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[Delete G094 in its entirety. The Ride-Along would become a permanent classification and the standards would be moved to new E260.]

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L Labeling Lists

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L800 Automation Rate Mailings

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[Amend the title and the first sentence in the summary of L802 by adding ''Bound Printed Matter'' to read as follows:]

L802 BMC/ASF Entry—Periodicals, Standard Mail, and Bound Printed Matter

Summary

L802 describes the service area by individual 3-digit ZIP Code prefix for mixed automation rate Periodicals, Standard Mail, and Bound Printed Matter mailings entered at an ASF or BMC. * * *

[Amend the title and the first sentence in the summary of L803 by adding ''Bound Printed Matter'' to read as follows:]

L803 Non-BMC/ASF Entry—Periodicals, Standard Mail, and Bound Printed Matter

Summary

L803 describes the service area by individual 3-digit ZIP Code prefix for mixed automation rate Periodicals, Standard Mail, and Bound Printed Matter mailings.* * *

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M Mail Preparation and Sortation

M000 General Preparation Standards

M010 Mailpieces

M011 Basic Standards

1.0 TERMS AND CONDITIONS

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1.3 Preparation Instructions

For purposes of preparing mail:

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[Amend 1.3b to show that a full letter tray can be anywhere between 75% and 100% full (the preferred default for presort software is 85%) full to read as follows:]

b. A full letter tray is one in which faced, upright pieces fill the length of the tray between 75% and 100% full.

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1.4 Mailing

Mailings are defined as:

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[Combine 1.4c with 1.4b. Redesignate 1.4d through 1.4f as 1.4c through 1.4e, respectively. Amend 1.4b to remove references to the upgradable preparation and to show that machinable and nonmachinable pieces cannot be part of the same mailing to read as follows:]

b. First-Class Mail. Cards and letters must be prepared as separate mailings except that they may be sorted together if each meets separate minimum volume mailing requirements. The following types of First-Class Mail may not be part of the same mailing despite being in the same processing category:

(1) Automation rate and any other type of mail.

(2) Presorted rate and any other type of mail.

(3) Single-piece rate and any other type of mail.

(4) Machinable and nonmachinable pieces.

* * * * *

[Amend redesignated 1.4d to remove references to the upgradable preparation, to show that machinable and nonmachinable pieces cannot be part of the same mailing, and to show that ECR letter rate pieces and ECR nonletter rate pieces cannot be part of the same mailing.]

d. Standard Mail. Except as provided in E620.1.2, the types of Standard Mail listed below may not be part of the same mailing. See M041, M045, and M610, and M620 for copalletized, combined, or mixed rate level mailings.

(1) Automation Enhanced Carrier Route and any other type of mail.

(2) Regular automation rate and any other type of mail.

(3) Enhanced Carrier Route and any other type of mail.

(4) Enhanced Carrier Route letter rate pieces and Enhanced Carrier Route nonletter rate pieces.

(5) Presorted rate mail and any other type of mail.

(6) Machinable and nonmachinable pieces.

(7) Except as provided by standard, Regular rate mail may not be in the same mailing as Nonprofit rate mail, and Enhanced Carrier Route mail may not be in the same mailing as Nonprofit Enhanced Carrier Route mail.

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M012 Markings and Endorsements

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2.0 MARKINGS—FIRST-CLASS MAIL AND STANDARD MAIL

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2.2 Exceptions to Markings

[Amend 2.2d to update the required MLOCR markings:]Exceptions are as follows:

* * * * *

d. MLOCR Prepared Automation Mailings. The basic marking must appear in the postage area on each piece as required in 2.1a. The other ''AUTO'' marking described in 2.1b must be replaced by the appropriate Identifier/Rate Code marking as described in P960 on those pieces that have the marking applied by an MLOCR. This seven-character marking provides a description of the Product Month Designator, MASS/FASTforward System Identifier, postage payment method, and the rate of postage affixed for metered and precanceled stamp mail or other postage information for permit imprint mail.

3.0 MARKINGS—PACKAGE SERVICES

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3.3 Additional Bound Printed Matter Markings

[Revise 3.3 to read as follows:]

In addition to the basic marking in 3.1, each piece of Bound Printed Matter mailed at a presorted or carrier route rate must bear additional rate markings. The additional markings may be placed in the postage area as specified in 3.1. Alternatively, these markings may be placed in the address area on the line directly above or two lines above the address if the marking appears alone, or if no other information appears on the line with the marking except postal optional endorsement line information under M013 or postal carrier route package information under M014. The additional rate markings are:

a. For presorted rate mail, the additional required marking is ''Presorted'' (or ''PRSRT''). For presorted automation rate flats prepared under M820, the optional marking ''AUTO'' may be used in place of ''Presorted'' (or ''PRSRT''). If the ''AUTO'' marking is not used, the automation rate flats must bear the ''Presorted'' (or ''PRSRT'') rate marking.

b. For carrier route rate mail, the additional required marking is ''Carrier Route Presort'' (or ''CAR-RT SORT'').

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4.0 ENDORSEMENTS—DELIVERY AND ANCILLARY SERVICES

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[Remove 4.5, OCR Read Area.]

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M020 Packages

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1.0 BASIC STANDARDS

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[Amend the title and text of 1.6 to include Media Mail and Library Mail to read as follows:]

1.6 Package Size—Bound Printed Matter, Media Mail, and Library Mail

Each logical package (the total group of pieces for a package destination) of Bound Printed Matter, Media Mail, and Library Mail must meet the applicable minimum and maximum package size standards in M045, M722, M730, or M740. The pieces in the logical package must then be secured in a physical package or packages. Wherever possible, each physical package for a logical package destination should contain at least the minimum package size. The size of each physical package for a specific logical package destination may, however, contain the exact package minimum, more pieces than the package minimum, or fewer pieces than the package minimum depending on the size of the pieces in the mailing or the total quantity of the pieces to that destination. Unless otherwise noted, the maximum weight for packages in sacks is 20 pounds. Except for mixed ADC packages and for carrier route packages prepared in sacks, each physical package of Bound Printed Matter must contain at least two pieces. For carrier route rate Bound Printed Matter mail prepared in sacks, the last physical package to an individual carrier route destination may consist of a single addressed piece, provided that all other packages to that carrier route destination contain at least two addressed pieces, and that the total group of pieces to that carrier route (the ''logical'' package) meets the carrier

route rate eligibility minimum in E712. Packages prepared on pallets must meet the additional packaging requirements under M045 and each physical package, including Carrier Route rate mail, must always contain at least two pieces. Packages of Bound Printed Matter automation flats must meet be prepared under M820.

* * * * *

[Amend the title in 2.0 to read as follows:]

2.0 ADDITIONAL STANDARDS

2.1 Cards and Letter-Size Pieces

Cards and letter-size pieces are subject to these packaging standards:

* * * * *

[Amend 2.1c to remove references to the upgradable preparation for First-Class Mail and Standard Mail and to show that nonmachinable and ''manual only'' pieces must be packaged to read as follows:]

c. Packages must be prepared for mail in all less-than-full trays and 3-digit carrier routes trays; for nonmachinable Presorted First-Class Mail; for nonmachinable Presorted Standard Mail; for First-Class Mail and Standard Mail pieces where the mailer has requested manual only processing; and for nonautomation Periodicals.

* * * * *

2.2 Flat-Size Pieces

[Amend 2.2 to add references to Media Mail and Library Mail to read as follows:]

Packages of flat-size pieces must be secure and stable subject to the following:

a. If placed on pallets, the specific weight limits in M045.

b. If placed in sacks:

(1) For Periodicals and Standard Mail, the specific weight and height limits in 1.8.

(2) For Bound Printed Matter, the specific weight limits in M720

(3) For Media Mail and Library Mail, the specific weight limits in M730 and M740, as applicable.

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M030 Containers

M031 Labels

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4.0 PALLET LABELS

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[Amend the title and text of 4.9 for clarity to read as follows:]

4.9 Barcoded Status

Pallet labels must indicate whether the mail on the pallet is barcoded, or not barcoded, or both. Specific Line 2 label information is in M045, M920, M930, and M940.

* * * * *

5.0 SECOND LINE CODES

The codes shown below must be used as appropriate on Line 2 of sack, tray, and pallet labels.

[Amend the table in 5.0 to add a second line code for manual letter-size pieces and to revise the entries for carrier routes, letters, and machinable parcels. The entries are to be inserted in alphabetical order to read as follows:]

Content type	Code
[Revise the code for Carrier Routes to add a new code:] Carrier Routes	CR–RT or CR–RTS.
[Revise the code for Letters to add a new code:] Letters	LTR or LTRS.
[Revise the entry for Machinable to apply to all classes and processing categories:] Machinable	MACH.
[Add a new entry for manual processing:] Manual (cannot be processed on automated equipment)	MAN or MANUAL.

M032 Barcoded Labels

1.0 BASIC STANDARDS—TRAY AND SACK LABELS

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Exhibit 1.3a 3-Digit Content Identifier Numbers

[Amend Exhibit 1.3a by adding new categories and CINs. Also, in the human-readable content line for First-Class Mail and Standard Mail letters, replace ''LTRS'' with ''LTR'' and ''CR–RTS'' with ''CR–RT.'' The footnotes are unchanged.]

Class and mailing	CIN	Human-readable content line
FIRST-CLASS MAIL		
[For ''FCM Letters—Automation,'' in the human-readable content line, replace ''LTRS'' with ''LTR'' and ''CR–RTS'' with ''CR–RT'' for all entries. Amend the human-readable content line for the 5-digit carrier routes trays for consistency:]		
5-digit carrier routes trays	264	FCM LTR 5D CR–RT BC
[For ''FCM Letters—Presorted (Basic Preparation),'' change the title and human-readable content line information.]		
FCM Letters—Presorted Nonmachinable (requires or requests manual processing)		
5-digit trays	267	FCM LTR 5D MANUAL
3-digit trays	269	FCM LTR 3D MANUAL
ADC trays	270	FCM LTR ADC MANUAL
Mixed ADC trays	268	FCM LTR MANUAL WKG
[Delete the entry for ''FCM Letters—Presorted (Nonautomation Processing).'']		
[For ''FCM Letters—Presorted (Upgradable Preparation),'' change the title and human-readable content line information to read as follows:]		
FCM Letters—Presorted Machinable		

Class and mailing	CIN	Human-readable content line
5-digit trays	252	FCM LTR 5D MACH
3-digit trays	255	FCM LTR 3D MACH
AADC trays	258	FCM LTR AADC MACH
Mixed AADC trays	260	FCM LTR MACH WKG
STANDARD MAIL		
[For ''Enhanced Carrier Route Letters—Automation,'' in the human-readable content line, replace ''LTRS'' with ''LTR'' and ''CR–RTS'' with ''CR–RT'' for all entries. Amend the human-readable content line for the 5-digit carrier routes trays for consistency:]		
5-digit carrier routes trays	564	STD LTR 5D CR–RT BC
[For ''Enhanced Carrier Route Letters—Nonautomation,'' change the title and human-readable content line information to show that saturation and high-density letters must be barcoded to read as follows:]		
Enhanced Carrier Route Letters—Barcoded		
Saturation rate trays	557	STD LTR BC WSS (1)
High density rate trays	557	STD LTR BC WSH (1)
Basic rate trays	557	STD LTR BC LOT (1)
5-digit carrier routes trays	564	STD LTR 5D CR–RT BC
3-digit carrier routes trays	565	STD LTR 3D CR–RT BC
[Add the following entry for ECR letters that are not barcoded but are machinable (for mailers who choose not to barcode their machinable pieces):]		
Enhanced Carrier Route Letters—Nonautomation (Not Barcoded but Machinable)		
Saturation rate trays	569	STD LTR MACH WSS (1)
High density rate trays	569	STD LTR MACH WSH (1)
Basic rate trays	569	STD LTR MACH LOT (1)
5-digit carrier routes trays	567	STD LTR 5D CR–RT MACH
3-digit carrier routes trays	567	STD LTR 3D CR–RT MACH
[Add the following entry for ECR letters that are not machinable (regardless of whether the pieces are barcoded):]		
Enhanced Carrier Route Letters—Nonautomation (Nonmachinable)		
Saturation rate trays	608	STD LTR MAN WSS (1)
High density rate trays	608	STD LTR MAN WSH (1)
Basic rate trays	608	STD LTR MAN LOT (1)
5-digit carrier routes trays	609	STD LTR 5D CR–RT MAN
3-digit carrier routes trays	611	STD LTR 3D CR–RT MAN
[For ''STD Letters—Automation,'' in the human-readable content line, replace ''LTRS'' with ''LTR'' for all entries.]		
[For ''STD Letters—Presorted (Basic Preparation)'' change the title and the human-readable content line information to read as follows:]		
STD Letters—Presorted Nonmachinable (requires or requests manual processing)		
5-digit trays	604	STD LTR 5D MANUAL
3-digit trays	606	STD LTR 3D MANUAL
ADC trays	607	STD LTR ADC MANUAL
Mixed ADC trays	605	STD LTR MANUAL WKG
[Delete the entry for ''STD Letters—Presorted (Nonautomation Processing).'']		
[For ''STD Letters—Presorted (Upgradable Preparation),'' change the title and the human-readable content line information to read as follows:]		
STD Letters—Presorted Machinable		
5-digit trays	552	STD LTR 5D MACH
3-digit trays	555	STD LTR 3D MACH
AADC trays	558	STD LTR AADC MACH
Mixed AADC trays	560	STD LTR MACH WKG
PACKAGES SERVICES		
Bound Printed Matter Flats—Automation		
5-digit sacks	635	PSVC FLTS 5D BC
3-digit sacks	636	PSVC FLTS 3D BC
SCF sacks	637	PSVC FLTS SCF BC
ADC sacks	638	PSVC FLTS ADC BC
Mixed ADC sacks	639	PSVC FLTS BC WKG
Media Mail and Library Mail Flats—Presorted		
5-digit sacks	649	PSVC FLTS 5D NON BC
3-digit sacks	650	PSVC FLTS 3D NON BC
ADC sacks	651	PSVC FLTS ADC NON BC

Class and mailing	CIN	Human-readable content line
Mixed ADC sacks	653	PSVC FLTS NON BC WKG
Media Mail and Library Mail Irregular Parcels—Presorted		
5-digit sacks	690	PSVC IRREG 5D
5-digit scheme sacks	690	PSVC IRREG 5D SCH
3-digit sacks	691	PSVC IRREG 3D
ADC sacks	692	PSVC IRREG ADC
Mixed ADC sacks	694	PSVC IRREG WKG
Media Mail and Library Mail Machinable Parcels—Presorted		
5-digit sacks	680	PSVC MACH 5D
5-digit scheme sacks	680	PSVC MACH 5D SCH
ASF sacks	682	PSVC MACH ASF
BMC sacks	683	PSVC MACH BMC
Mixed BMC sacks	684	PSVC MACH WKG

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M033 Sacks and Trays

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2.0 FIRST-CLASS MAIL, PERIODICALS, AND STANDARD MAIL

2.1 Letter Tray Preparation

[Revise 2.1 in its entirety to reorganize and clarify the standards for letter trays to read as follows:]

Letter trays are prepared as follows:

a. Subject to availability of equipment, standard managed mail (MM) trays must be used for all letter-size mail, except that extended MM (EMM) trays must be used when available for letter-size mail that exceeds the height or width (inside dimensions) of MM trays defined in 1.3. When EMM trays are not available for those larger pieces, they must be placed in MM trays, angled back, or placed upright perpendicular to the length of the tray in row(s) to preserve their orientation.

b. Pieces must be ''faced'' (oriented with all addresses in the same direction with the postage area in the upper right).

c. Each tray prepared must be filled before filling the next tray, with the contents in multiple trays relatively balanced. When preparing full trays, mailers must fill all possible 2-foot trays first; if there is mail remaining for the presort destination, then mailers must use a combination of 1-foot and 2-foot trays that results in the fewest total number of trays.

d. For presort destinations that do not require full trays, pieces are placed in a less-than-full tray.

e. Mailers must use as few trays as possible without jeopardizing rate eligibility. For instance, a mailer will never have two 1-foot trays to a single destination; that mail must be placed in a single 2-foot tray. A 1-foot tray is prepared only if it is a full tray with no overflow; or if there is less than 1 foot of mail for that destination; or if the overflow from a full 2-foot tray is less than 1 foot of mail.

f. Each tray must bear the correct tray label.

g. Each tray must be sleeved and strapped under 1.5 and 1.6.

h. If a mailing is prepared using an MLOCR/barcode sorter and is submitted with standardized documentation, then pieces do not have to be grouped by 3-digit ZIP Code prefix (or by 3-digit scheme, if applicable) in AADC trays, or by AADC in mixed AADC trays.

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M040 Pallets

M041 General Standards

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5.0 PREPARATION

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5.3 Minimum Load

These standards apply to:

[Amend 5.3a to show that letter trays on pallets are measured by linear feet, not by the number of layers of trays to read as follows:]

a. Periodicals, Standard Mail, and Package Services (except for Parcel Post mailed at BMC Presort, OBMC Presort, DSCF, and DDU rates). In a single mailing, the minimum load per pallet is 250 pounds of packages, parcels, or sacks; or 36 linear feet letter trays. In a mailing or mailing job presented for acceptance at a single postal facility, one overflow pallet with less than the required minimum may be prepared for mail destinating in the service area of the entry facility; that pallet must be properly labeled under M045. Exceptions: There is no minimum load for pallets entered at a DDU if the mail on those pallets is for that DDU's service area. For mail entered at an SCF, the SCF manager must authorize in writing preparation of any 5-digit, 3-digit, or SCF pallet containing less than the minimum required load if the mail on those pallets is for that SCF's service area.

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5.5 Maximum Load

[Amend 5.5 to show that all pallets are measured in inches, not in the number of layers of trays to read as follows:]

The maximum weight (mail and pallet) is 2,200 pounds. The maximum height of a single pallet (pallet, mail, and top cap) is 77 inches. Exception: A single pallet that is prepared for entry at Anchorage or Fairbanks, AK, may not exceed a maximum height of 72 inches (pallet, mail, and top cap).

5.6 Mail on Pallets

These standards apply to mail on pallets:

* * * * *

[Redesignate 5.6d through 5.6h as 5.6e through 5.6i, respectively. Add new 5.6d to show that letter trays on pallets are measured by linear feet, not by the number of layers of trays to read as follows:]

d. For determining minimum pallet volume, mail in letter trays is measured in linear feet. A 2-foot tray equals 2 linear feet; a 1-foot tray equals 1 linear foot.

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M045 Palletized Mailings

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3.0 PALLET PRESORT AND LABELING

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3.2 Standard Mail Packages, Sacks, Irregular Parcels, or Trays on Pallets

Mailers must prepare pallets in the sequence listed below, except that mailings of sacks and trays must be prepared beginning with 3.2c (because scheme sort is not permitted). Pallets must be labeled according to the Line 1 and Line 2 information listed below and

under M031. At the mailer's option, packages of Standard Mail flats may be palletized using the advanced presort options under M920, M930, or M940.

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[Amend 3.2c to show that pallets of carrier route letters must show on Line 2 of the pallet label whether the pieces are barcoded or not barcoded to read as follows:]

c. 5-Digit Carrier Routes. Required for sacks and packages; optional for trays. May contain only carrier route rate mail for the same 5-digit ZIP Code.

(1) Line 1: use city, state abbreviation, and 5-digit ZIP Code on mail, preceded for military mail by correct prefix in M031.

(2) Line 2: For flats and irregulars, ''STD FLTS'' or ''STD IRREG''; followed by ''CARRIER ROUTES'' or ''CR–RTS.'' For trays, ''STD LTRS''; followed by ''CARRIER ROUTES'' or ''CR–RTS''; followed by ''BC'' if the pallet contains barcoded letters; followed by ''MACH'' if the pallet contains nonbarcoded machinable letters; followed by ''MAN'' if the pallet contains nonmachinable letters.

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[Amend 3.2e through 3.2i to show that pallets must indicate on Line 2 of the pallet label whether the pieces are barcoded (''BC''), not barcoded but machinable (''MACH''), or nonmachinable (''MAN'') to read as follows:]

e. 3-Digit. Optional. May contain carrier route rate, automation rate, and/or Presorted rate mail.

(1) Line 1: use L002, Column A.

(2) Line 2: For flats and irregulars, ''STD FLTS 3D'' or ''STD IRREG 3D''; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate and/or carrier route rate mail. For letters, ''STD LTRS 3D''; followed by ''BC'' if the pallet contains barcoded letters; followed by ''MACH'' if the pallet contains nonbarcoded machinable letters; followed by ''MAN'' if the pallet contains nonmachinable letters.

f. SCF. Required. May contain carrier route rate, automation rate, and/or Presorted rate mail.

(1) Line 1: use L002, Column C.

(2) Line 2: For flats and irregulars, ''STD FLTS SCF'' or ''STD IRREG SCF'; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate and/or carrier route rate mail. For letters, ''STD LTRS SCF''; followed by ''BC'' if the pallet contains barcoded letters; followed by ''MACH'' if the pallet contains nonbarcoded machinable letters; followed by ''MAN'' if the pallet contains nonmachinable letters.

g. ASF. Required, except that an ASF sort may not be required if using package reallocation for flats to protect the BMC pallet under 5.0. May contain carrier route rate, automation rate, and/or Presorted rate mail. Sort ADC packages, trays, or sacks to ASF pallets based on the ''label to'' ZIP Code for the ADC destination of the package, tray, or sack in L004 (letters or flats) or L603 (irregular parcels). Sort AADC trays to ASF pallets based on the ''label to'' ZIP Code for the AADC destination of the tray in L801. See E650.5.0 for additional requirements for DBMC rate eligibility.

(1) Line 1: use L602.

(2) Line 2: For flats and irregulars, ''STD FLTS ASF'' or ''STD IRREG ASF'; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate and/or carrier route rate mail. For letters, ''STD LTRS ASF''; followed by ''BC'' if the pallet contains barcoded letters; followed by ''MACH'' if the pallet contains nonbarcoded machinable letters; followed by ''MAN'' if the pallet contains nonmachinable letters.

h. BMC. Required. May contain carrier route rate, automation rate, and/or Presorted rate mail. Sort ADC packages, trays, or sacks to BMC pallets based on the ''label to'' ZIP Code for the ADC destination of the package, tray, or sack in L004 (letters or flats) or L603 (irregular parcels). Sort AADC trays to BMC pallets based on the ''label to'' ZIP Code for the AADC destination of the tray in L801. See E650.5.0 for additional requirements for DBMC rate eligibility.

(1) Line 1: use L601.

(2) Line 2: For flats and irregulars, ''STD FLTS BMC'' or ''STD IRREG BMC'; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate and/or carrier route rate mail. For letters, ''STD LTRS BMC''; followed by ''BC'' if the pallet contains barcoded letters; followed by ''MACH'' if the pallet contains nonbarcoded machinable letters; followed by ''MAN if the pallet contains nonmachinable letters.

i. Mixed BMC (for sacks and trays on pallets only). Optional. May contain carrier route rate, automation rate, and/or Presorted rate mail.

(1) Line 1: use ''MXD'' followed by the information in L601, Column B, for the BMC serving the 3-digit ZIP Code prefix of the entry post office (label to plant serving entry post office if authorized by the processing and distribution manager).

(2) Line 2: For flats and irregulars, ''STD FLTS'' or ''STD IRREG'; followed by ''BARCODED'' or ''BC'' if the pallet contains automation rate mail; followed by ''NONBARCODED'' or ''NBC'' if the pallet contains Presorted rate and/or carrier route rate mail; followed by ''WKG.'' For letters, ''STD LTRS''; followed by ''BC'' if the pallet contains barcoded letters; followed by ''MACH'' if the pallet contains nonbarcoded machinable letters; followed by ''MAN if the pallet contains nonmachinable letters; followed by ''WKG.''

[Revise the title and text of 3.3a to read as follows:]

3.3 Package Services Flats—Packages and Sacks on Pallets

Mailers must prepare pallets in the sequence listed below, except that mailings of sacks on pallets must be prepared beginning with 3.3c. Pallets must be labeled according to the Line 1 and Line 2 information listed below and under M031.

a. 5-Digit Scheme Carrier Routes. Required for packages of BPM flats on pallets. Not permitted for sacks on pallets. May contain only carrier route rate packages for the same 5-digit scheme under L001. Scheme sort must be done for all 5-digit scheme destinations. For all 5-digit destinations that are not part of a scheme, prepare 5-digit carrier routes pallets under 3.3c.

(1) Line 1: use L001, Column B.

(2) Line 2: ''PSVC FLTS,'' followed by ''CARRIER ROUTES'' or ''CR–RTS'' and ''SCHEME'' or ''SCH.'' * * *

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[Amend the title of 3.4 by replacing Bound Printed Matter with Package Services Irregular Parcels to read as follows:]

3.4 Package Services Irregular Parcels—Packages and Sacks on Pallets

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[Revise the title of 3.5 to read as follows:]

3.5 Machinable Parcels—Standard Mail and Package Services

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[Remove section 3.6, Presorted Media Mail and Library Mail.]

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M050 Delivery Sequence

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4.0 DOCUMENTATION

4.1 General

[Amend the first paragraph of 4.1 to clarify that signing a postage statement

certifies the mail meets the requirements for the rates claimed to read as follows:]

For Periodicals, the postage statement must be annotated in the ''Sequencing Date'' block on each of the lines where carrier route basic, high density, and saturation per piece rate postage is reported. For Standard Mail, the postage statement must be annotated in the ''Sequencing Date'' block on the front of the postage statement where total postage for Enhanced Carrier Route rates is reported. The mailer must provide documentation to substantiate compliance with the standards for carrier route sequencing. The mailer's signature on the postage statement certifies that this standard has been met when the corresponding mail is presented to the USPS. Unless the documentation is submitted with the corresponding mailing, the mailer must be able to provide the USPS with documentation of accurate sequencing or delivery statistics for each carrier route to which walk-sequence and basic rate pieces are mailed. The mailer must annotate the postage statement to show the earliest (oldest) date of the method (in 4.1a through 4.1e) used to obtain sequencing information for the mailing. Acceptable forms of documentation are:

* * *

* * * * *

M100 First-Class Mail (Nonautomation)

* * * * *

M130 Presorted First-Class Mail

1.0 BASIC STANDARDS

* * * * *

[Revise the title and text of 1.5 to read as follows:]

1.5 Nonmachinable Pieces

Nonmachinable cards and letters must use the preparation sequence in 3.0. Nonmachinable flats must use the preparation sequence in 4.0.

[Redesignate 1.6, Co-Traying With Automation Rate Mail, as 1.7. Add new 1.6 for the manual only option to read as follows:]

1.6 Manual Only Option

Mailers who prefer that the USPS not automate letter-size pieces (including cards) must use the packaging and tray preparation sequence for nonmachinable pieces in 3.0. The manual only option is not available for flats.

[Replace 2.0 with the preparation for cards and machinable letters to read as follows: (this preparation is very similar to the current upgradable preparation). Machinable pieces are packaged only to maintain their orientation in the tray.]

2.0 PREPARATION—MACHINABLE LETTER-SIZE PIECES

2.1 Packaging

Machinable pieces are not packaged, except for (see M020):

a. Card-size pieces.

b. All pieces in a less-than-full origin 3-digit tray.

c. All pieces in a less-than-full mixed AADC tray.

2.2 Tray Preparation and Labeling

Preparation sequence, tray size, and labeling:

a. 5-digit: optional; full trays only; no overflow.

(1) Line 1: use 5-digit ZIP Code on mail, preceded for military mail by correct prefix in M031.

(2) Line 2: ''FCM LTR 5D MACH.''

b. 3-digit: required; full trays only, except for one less-than-full tray for each origin 3-digit(s); no overflow.

(1) Line 1: use L002, Column A.

(2) Line 2: ''FCM LTR 3D MACH.''

c. AADC: required; full trays only; no overflow.

(1) Line 1: use L801, Column B.

(2) Line 2: ''FCM LTR AADC MACH.''

d. Mixed AADC: required; no minimum.

(1) Line 1: use ''MXD'' followed by city/state/ZIP Code of facility serving 3-digit ZIP Code prefix of entry post office, as shown in L002, Column C.

(2) Line 2: ''FCM LTR MACH WKG.''

[Replace 3.0, Upgradable Preparation, with the preparation instructions for nonmachinable and manual only cards and letters to read as follows:]

3.0 PREPARATION—NONMACHINABLE LETTER-SIZE PIECES

3.1 Packaging

Packaging is required. Mailers who prefer that the USPS not automate letter-size pieces must identify each package with a facing slip on which ''MANUAL ONLY'' is printed or use a ''MANUAL ONLY'' optional endorsement line (see M013).

Preparation sequence, package size, and labeling:

a. 5-digit: required (10-piece minimum); red Label D or optional endorsement line (OEL); labeling is not required for pieces in full 5-digit trays.

b. 3-digit: required (10-piece minimum); green Label 3 or OEL.

c. ADC: required (10-piece minimum); pink Label A or OEL.

d. Mixed ADC: required (no minimum); tan Label MXD or OEL.

3.2 Exception to Packaging

Under certain conditions, nonmachinable pieces may not need to be packaged (see M020.1.9).

3.3 Tray Preparation and Labeling

Preparation sequence, tray size, and labeling:

a. 5-digit: required; full trays only; no overflow.

(1) Line 1: use 5-digit ZIP Code on mail, preceded for military mail by correct prefix in M031.

(2) Line 2: ''FCM LTR 5D MANUAL.''

b. 3-digit: required; full trays only, except for one less-than-full tray for each origin 3-digit(s); no overflow.

(1) Line 1: use L002, Column A.

(2) Line 2: ''FCM LTR 3D MANUAL.''

c. ADC: required; full trays only; no overflow.

(1) Line 1: use L004, Column B.

(2) Line 2: ''FCM LTR ADC MANUAL.''

d. Mixed ADC: required; no minimum.

(1) Line 1: use ''MXD'' followed by city/state/ZIP Code of facility serving 3-digit ZIP Code prefix of entry post office, as shown in L002, Column C.

(2) Line 2: ''FCM LTR MANUAL WKG.''

[Revise the title of 4.0 to read as follows:]

4.0 PREPARATION—FLATS

* * * * *

[Redesignate 4.2 and 4.3 as 4.3 and 4.4, respectively. Add new 4.2 to show that flats do not have to be packaged under certain conditions to read as follows:]

4.2 Exception to Packaging

Under certain conditions, flat-size pieces may not need to be packaged (see M020.1.9).

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M200 Periodicals (Nonautomation)

M210 Presorted Rates

* * * * *

[Remove section 6.0, Combining Multiple Publications or Editions.]

M220 Carrier Route Rates

* * * * *

[Remove section 6.0, Combining Multiple Publications or Editions.][Add new M230 to read as follows:]

M230 Combining Multiple Editions or Publications

1.0 DESCRIPTION

A combined mailing is a mailing in which two or more Periodicals publications or editions are merged into a single mailstream, during production or after finished copies are produced,

and all copies of all the publications or editions are presorted together into packages to achieve the finest presort level possible for the combined mailing.

2.0 VOLUME

More than one Periodicals publication, or edition of a publication, may be combined to meet the volume standard per tray, sack, or package for the rate claimed.

3.0 EACH PIECE

Each piece must meet the basic standards in E211 and the specific standards of the rate claimed.

4.0 DOCUMENTATION

Presort documentation required under P012 must also show the total number of addressed pieces and copies of each publication or edition mailed to each carrier route, 5-digit, and 3-digit destination. The publisher must also provide a list, by 3-digit ZIP Code prefix, of the number of addressed pieces and copies of each publication or edition qualifying for the DDU, DSCF, and DADC rate, as applicable.

5.0 SEPARATE POSTAGE STATEMENTS

A separate postage statement must be prepared for the per pound postage computations for each publication or edition that is part of the combined mailing. The title and issue date of the publications with which each publication or edition was combined must be noted on, or attached to, the postage statements. The per piece postage computations for all other than preferred rate publications must be calculated on the postage statement for the publication containing the higher (or highest) amount of advertising. The per piece postage computations for all preferred rate publications must be calculated on the postage statement for the publication containing the higher (or highest) amount of advertising. The nonadvertising adjustment must be computed on the appropriate postage statement for each rate category based on the publication (or edition, if applicable) containing the higher (or highest) amount of advertising matter for that rate category.

* * * * *

M600 Standard Mail (Nonautomation)

M610 Presorted Standard Mail

1.0 BASIC STANDARDS

* * * * *

[Redesignate 1.5 and 1.6 as 1.6 and 1.7, respectively. Add new 1.5 to account for the new preparation for nonmachinable pieces to read as follows:]

1.5 Nonmachinable Pieces

Nonmachinable cards and letters must use the preparation sequence and tray labeling in 3.0.

[Revise the title and text of redesignated 1.6 to read as follows:]

1.6 Manual Only Option

Mailers who prefer that the USPS not automate letter-size pieces (including cards) must use the packaging and tray preparation sequence for nonmachinable pieces in 3.0. The manual only option is not available for flats.

[Replace 2.0 with the preparation for machinable cards and letters (this preparation is very similar to the current upgradable preparation). Machinable pieces are packaged only to maintain their orientation in the tray.]

2.0 PREPARATION—MACHINABLE LETTER-SIZE PIECES

2.1 Packaging

Machinable pieces are not packaged, except for (see M020):

a. Card-size pieces.

b. All pieces in a less-than-full origin 3-digit tray.

c. All pieces in a less-than-full mixed AADC tray.

2.2 Tray Preparation and Labeling

Only mail eligible for the 3/5 rate (i.e., 150 or more pieces for the 3-digit area) may be prepared in 5-digit and 3-digit trays. Preparation sequence, tray size, and labeling:

a. 5-digit: optional (full trays); no overflow.

(1) Line 1: use 5-digit ZIP Code on mail, preceded for military mail by correct prefix in M031.

(2) Line 2: ''STD LTR 5D MACH.''

b. 3-digit: required (no minimum).

(1) Line 1: use L002, Column A.

(2) Line 2: ''STD LTR 3D MACH.''

c. Origin 3-digit(s): required (no minimum); optional for entry 3-digit(s) (no minimum).

(1) Line 1: use L002, Column A.

(2) Line 2: ''STD LTR 3D MACH.''

d. AADC: required (full trays); no overflow; group pieces by 3-digit ZIP Code prefix.

(1) Line 1: use L801.

(2) Line 2: ''STD LTR AADC MACH.''

e. Mixed AADC: required (no minimum); group pieces by AADC.

(1) Line 1: use L802 (for mail entered at an ASF or BMC) or L803.

(2) Line 2: ''STD LTR MACH WKG.''

[Replace 3.0, Upgradable Preparation, with the new preparation for nonmachinable piece to read as follows:]

3.0 PREPARATION—NONMACHINABLE LETTER-SIZE PIECES

3.1 Packaging

Packaging is required for nonmachinable pieces and for any pieces that mailers do not want the USPS to automate. Mailers who prefer that the USPS not automate their pieces must identify each package with a facing slip on which ''MANUAL ONLY'' is printed or use a ''MANUAL ONLY'' optional endorsement line (see M013). Preparation sequence, package size, and labeling:

a. 5-digit: required (10-piece minimum, fewer not permitted); red Label D or optional endorsement line (OEL); labeling is not required for pieces in full 5-digit trays.

b. 3-digit: required (10-piece minimum, fewer not permitted); green Label 3 or OEL.

c. ADC: required (10-piece minimum, fewer not permitted); pink Label A or OEL.

d. Mixed ADC: required (no minimum); tan Label MXD or OEL.

3.2 Exception to Packaging

Under certain conditions, nonmachinable pieces may not need to be packaged (see M020.1.9).

3.3 Tray Preparation and Labeling

Only mail eligible for the 3/5 rate (i.e., 150 or more pieces for the same 3-digit area) may be prepared in 5-digit and 3-digit trays. Preparation sequence, tray size, and labeling:

a. 5-digit: required (full trays); no overflow.

(1) Line 1: use 5-digit ZIP Code on mail, preceded for military mail by correct prefix in M031.

(2) Line 2: ''STD LTR 5D MANUAL.''

b. 3-digit: required (no minimum).

(1) Line 1: use L002, Column A.

(2) Line 2: ''STD LTR 3D MANUAL.''

c. Origin 3-digit(s): required (one-package minimum); optional for entry 3-digit(s) (no minimum).

(1) Line 1, use L002, Column A.

(2) Line 2: ''STD LTR 3D MANUAL.''

d. ADC: required (full trays); no overflow.

(1) Line 1, use L004.

(2) Line 2: ''STD LTR ADC MANUAL.''

e. Mixed ADC: required (no minimum).

(1) Line 1: use ''MXD'' followed by city/state/ZIP Code of ADC serving 3-digit ZIP Code prefix of entry post office, as shown in L004.

(2) Line 2: ''STD LTR MANUAL WKG.''

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M620 Enhanced Carrier Route Standard Mail

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3.0 TRAY PREPARATION—LETTER-SIZE PIECES

[Merge current 3.1 and 3.2 into a single 3.1 and amend the Line 2 information to show the barcoded status to read as follows:]

3.1 Tray Preparation and Labeling

Preparation sequence, tray size, and labeling:

a. Carrier route: required; full trays only, no overflow.

(1) Line 1: use 5-digit ZIP Code on package, preceded for military mail by correct prefix in M031.

(2) Line 2:

(a) Saturation: ''STD LTR BC WSS,'' followed by route type and number.

(b) High density: ''STD LTR BC WSH,'' followed by route type and number.

(c) Basic: ''STD LTR BC LOT,'' followed by route type and number.

b. 5-digit carrier routes: required if full tray, optional with minimum one 10-piece package.

(1) Line 1: use 5-digit ZIP Code on package, preceded for military mail by correct prefix in M031.

(2) Line 2: ''STD LTR 5D CR-RT BC.''

c. 3-digit carrier routes: optional with minimum one 10-piece package for each of two or more 5-digit areas.

(1) Line 1: use city/state/ZIP Code shown in L002, Column A, that corresponds to 3-digit ZIP Code prefix on package.

(2) Line 2: ''STD LTR 3D CR-RT BC.''

[Add new 3.2 to show the Line 2 information for trays containing mail that is machinable but is not barcoded to read as follows:]

3.2 Tray Line 2 for Machinable Nonbarcoded Pieces

For trays that contain letter-size pieces that are machinable but not barcoded, use ''MACH'' on Line 2 in place of ''BC.''

[Add new 3.3 to show the Line 2 information for trays containing mail that is nonmachinable (barcoded or not) to read as follows:]

3.3 Tray Line 2 for Nonmachinable Pieces

For trays that contain letter-size pieces that are nonmachinable, use ''MAN'' on Line 2 in place of ''BC.''

[Add new 3.4 to show Line 2 information for trays containing simplified address pieces to read as follows:]

3.4 Tray Line 2 for Pieces with Simplified Address

For trays that contain letter-size pieces that bear a simplified address, use ''MAN'' on Line 2 in place of ''BC.''

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M700 Package Services

M710 Parcel Post

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2.0 DSCF RATE

[Amend 2.1 to add DSCF rate 3-digit nonmachinable parcels to read as follows:]

2.1 General

To qualify for the DSCF rate, pieces must be for the same SCF area under L005 and must be prepared as follows:

a. Sorted to optional 5-digit scheme destinations under L606, Column B, and 5-digit destinations, either in sacks under 2.2 or directly on pallets or in pallet boxes on pallets under M041 and M045. Pieces must be part of a mailing of at least 50 Parcel Post pieces. They must be entered at the designated SCF under L005 that serves the 5-digit ZIP Code destinations of the pieces except when palletized and entry is required at a BMC (see Exhibit E751.6.0). The DSCF rate is not available for palletized mail for facilities that are unable to handle palletized mailings. Refer to the Drop Shipment Product available from the National Customer Support Center (NCSC) (see G043) and Exhibit E751.7.0 and Exhibit E751.8.0 to determine if the facility serving the 5-digit destination can handle pallets. There is a charge for the Drop Shipment Product.

b. Any remaining nonmachinable parcels (as defined in C700.2.0) sorted to 3-digit ZIP Code prefixes L002; Column A. Machinable parcels may not be sorted to the 3-digit level.

* * * * *

M720 Bound Printed Matter

M721 Single-Piece Bound Printed Matter

1.0 BASIC STANDARDS

1.1 General

[Amend 1.1 by adding a sentence at the end for barcoded single-piece rate Bound Printed Matter to read as follows:]

* * * Bound Printed Matter claiming a barcoded discount must meet the applicable standards in E712.

* * * * *

M730 Media Mail

[Revise 1.0 to read as follows:]

1.0 BASIC STANDARDS

1.1 General

There are no presort, sacking, or labeling standards for single-piece Media Mail. All mailings of presorted Media Mail are subject to the standards in 2.0 through 4.0 and to these general requirements:

a. Each mailing must meet the applicable standards in E710, E713, and in M010, M020, and M030.

b. All pieces in a mailing must be within the same processing category as described in C050. A Media Mail irregular parcel is a piece that is not a machinable parcel as defined in C050.4.1 or a flat as defined in C050.3.1. Pieces that meet the size and weight standards for a machinable parcel but are not individually boxed or packaged to withstand processing on BMC parcel sorters under C010 also are irregular parcels.

c. All pieces must be sorted to the finest extent possible under 2.0 through 4.0 or palletized under M045.

d. Each piece claimed at Media Mail rates must be marked ''Media Mail'' under M012. Each piece claimed at presorted Media Mail rates also must be marked ''Presorted'' or ''PRSRT'' under M012.

1.2 Documentation

A complete, signed postage statement, using the correct USPS form or an approved facsimile, must accompany each mailing. Documentation of postage is not required if the correct rate is affixed to each piece or if each piece is of identical weight, and the pieces are separated by rate level at the time of mailing.

[Revise 2.0 to read as follows:]

2.0 PREPARATION—FLATS

2.1 Required Packaging

A package must be prepared when the quantity of addressed pieces for a required presort level reaches a minimum of 10 pieces. Smaller volumes are not permitted. The maximum weight of each physical package is 20 pounds, except that 5-digit packages placed in 5-digit sacks may weigh a maximum of 40 pounds. Each physical package must contain at least two addressed pieces.

2.2 Package Preparation

Packages must be prepared and labeled in the following required sequence:

a. 5-digit: required; red Label D or optional endorsement line (OEL).

b. 3-digit: required; green Label 3 or OEL.

c. ADC: required; pink Label A or OEL.

d. Mixed ADC: required (no minimum); tan Label MXD or OEL.

2.3 Required Sacking

A sack must be prepared when the quantity of mail for a required presort destination reaches the minimums specified in 2.4. Smaller volumes are not permitted.

2.4 Sack Preparation and Labeling

Sacks must be prepared and labeled in the following sequence:

a. 5-digit: optional, except required for 5-digit rate (10 piece minimum).

(1) Line 1: use 5-digit ZIP Code on packages, preceded for military mail by correct prefix in M031.

(2) Line 2: ''PSVC FLTS 5D NON BC.''

b. 3-digit: required (20 piece minimum).

(1) Line 1: use L002, Column A.

(2) Line 2: ''PSVC FLTS 3D NON BC.''

c. ADC: required (20 piece minimum).

(1) Line 1: use L004, Column B.

(2) Line 2: ''PSVC FLTS ADC NON BC.''

d. Mixed ADC: required (no minimum).

(1) Line 1: use ''MXD'' followed by city/state/ZIP Code of ADC serving 3-digit ZIP Code prefix of entry post office, as shown in L004, Column B.

(2) Line 2: ''PSVC FLTS NON BC WKG.''

[Add new 3.0 to read as follows:]

3.0 PREPARATION—IRREGULAR PARCELS

3.1 Required Packaging

A package must be prepared when the quantity of addressed pieces for a required presort level reaches a minimum of 10 pieces, except that packaging is not required for pieces placed in 5-digit scheme sacks and 5-digit sacks when such pieces are enclosed in an envelope, full-length sleeve, full-length wrapper, or polybag and the minimum package volume is met. The maximum weight of each physical package is 20 pounds, except that 5-digit packages placed in 5-digit sacks may weigh a maximum of 40 pounds. Each physical package must contain at least two addressed pieces. Packaging is also subject to these conditions:

a. Identical-weight pieces that weigh 1 pound or less must be prepared using the 10-piece minimum; those that weigh more than 1 pound must be prepared using the 10-pound minimum.

b. For nonidentical-weight pieces, mailers must either use the minimum that applies to the average piece weight for the entire mailing (divide the net weight of the mailing by the number of pieces; the resulting average single-piece weight determines whether the 10-piece or 10-pound minimum applies), or package by the actual piece count or mail weight for each sack, if documentation can be provided with the mailing that shows (specifically for each sack) the number of pieces in each package and their total weight.

c. Mailers must note on the accompanying postage statement whether they applied the piece count, weight, or both.

3.2 Package Preparation

Packages must be prepared and labeled in the following sequence:

a. 5-digit: required; red Label D or optional endorsement line (OEL).

b. 3-digit: required; green Label 3 or OEL.

c. ADC: required; pink Label A or OEL.

d. Mixed ADC: required (no minimum); tan Label MXD or OEL.

3.3 Required Sacking

A sack must be prepared when the quantity of mail for a required presort destination reaches either 10 addressed pieces or 20 pounds, whichever occurs first. Smaller volumes are not permitted (except in mixed ADC sacks). Optional 5-digit scheme sacks may be prepared only when there are at least 10 addressed pieces or 20 pounds. Smaller volumes are not permitted. Sacking is also subject to these conditions:

a. Identical-weight pieces weighing 2 pounds or less must be sacked using the 10-piece minimum; those that weigh more must be sacked using the 20-pound minimum.

b. For nonidentical-weight pieces, mailers must use either the minimum that applies to the average piece weight for the entire mailing (divide the net weight of the mailing by the number of pieces; the resulting average single-piece weight determines whether the 10-piece or 20-pound minimum applies). Alternatively, mailers may sack by the actual piece count or mail weight for each destination, provided that documentation can be provided with the mailing that shows (specifically for each sack) the number of pieces in each sack and their total weight.

c. Mailers must note on the accompanying postage statement whether they applied the piece count, weight, or both.

3.4 Sack Preparation and Labeling

Sacks must be prepared and labeled in the following sequence:

a. 5-digit scheme: optional.

(1) Line 1: use L606, Column B.

(2) Line 2: ''PSVC IRREG 5D SCHEME'' or ''PSVC IRREG 5D SCH.''

b. 5-digit: required.

(1) Line 1: use 5-digit ZIP Code on packages, preceded for military mail by correct prefix in M031.

(2) Line 2: ''PSVC IRREG 5D.''

c. 3-digit: required.

(1) Line 1: use L002, Column A.

(2) Line 2: ''PSVC IRREG 3D.''

d. ADC: required.

(1) Line 1: use L004, Column B.

(2) Line 2: ''PSVC IRREG ADC.''

e. Mixed ADC: required (no minimum).

(1) Line 1: use ''MXD'' followed by city/state/ZIP Code of ADC serving 3-digit ZIP Code prefix of entry post office, as shown in L004, Column B.

(2) Line 2: ''PSVC IRREG WKG.''

[Add new 4.0 to read as follows:]

4.0 PREPARATION—MACHINABLE PARCELS

4.1 Sacking

A sack must be prepared when the quantity of mail for a required presort destination reaches 7 addressed pieces or 20 pounds whichever occurs first for optional 5-digit scheme or 5-digit sacks, or 10 pieces or 20 pounds whichever occurs first for BMC sacks. Smaller volumes are not permitted. Sacking also is subject to these conditions:

a. Identical-weight pieces that weigh 2 pounds or less must be sacked using the 10-piece minimum; those that weigh more must be sacked using the 20-pound minimum.

b. For nonidentical-weight pieces, mailers must use either the minimum that applies to the average piece weight for the entire mailing (divide the net weight of the mailing by the number of pieces; the resulting average single-piece weight determines whether the 10-piece or 20-pound minimum applies) or sack by the actual piece count or mail weight for each package destination, provided that documentation can be provided with the mailing that shows (specifically for each sack) the number of pieces and their total weight.

c. Mailers must note on the accompanying postage statement whether they applied the piece count, weight, or both.

4.2 Sack Preparation and Labeling

Sacks must be prepared and labeled in the following sequence:

a. 5-digit scheme: optional.

(1) Line 1: use L606, Column B.

(2) Line 2: ''PSVC MACH 5D SCHEME'' or ''PSVC MACH 5D SCH.''

b. 5-digit: required.

(1) Line 1: use 5-digit ZIP Code on parcels, preceded for military mail by correct prefix in M031.

(2) Line 2: ''PSVC MACH 5D.''
c. BMC: required.
(1) Line 1: use L601, Column B.
(2) Line 2: ''PSVC MACH BMC.''
d. Mixed BMC: required (no minimum).
(1) Line 1: ''MXD'' followed by information in L601, Column B, for BMC serving 3-digit ZIP Code of entry post office.
(2) Line 2: ''PSVC MACH WKG.''

M740 Library Mail

1.0 BASIC STANDARDS

[Revise 1.0 to read as follows:]

1.1 General

There are no presort, sacking, or labeling standards for single-piece Library Mail. All mailings of Presorted Library Mail are subject to the standards in 2.0 through 4.0 and to these general standards:
a. Each mailing must meet the applicable standards in E710, E714, and in M010, M020, and M030.
b. All pieces in a mailing must be within the same processing category as described in C050. A Library Mail irregular parcel is a piece that is not a machinable parcel as defined in C050.4.1 or a flat as defined in C050.3.1. Pieces that meet the size and weight standards for a machinable parcel but are not individually boxed or packaged to withstand processing on BMC parcel sorters under C010 are also considered irregular parcels.
c. All pieces must be sorted to the finest extent possible under 2.0 through 4.0 or palletized under M045.
d. Each piece claimed at Library Mail rates must be marked ''Library Mail'' under M012. Each piece claimed at presorted Library Mail rates also must be marked ''Presorted'' or ''PRSRT'' under M012.

1.2 Documentation

A complete, signed postage statement, using the correct USPS form or an approved facsimile, must accompany each mailing. Documentation of postage is not required if the correct rate is affixed to each piece or if each piece is of identical weight, and the pieces are separated by rate level at the time of mailing.

[Revise the title and text of 2.0 to read as follows:]

2.0 PREPARATION—FLATS

2.1 Required Packaging

A package must be prepared when the quantity of addressed pieces for a required presort level reaches a minimum of 10 pieces. Smaller volumes are not permitted. The maximum weight of each physical package is 20 pounds, except that 5-digit packages, placed in 5-digit sacks may weigh a maximum of 40 pounds. Each physical package must contain at least two addressed pieces.

2.2 Package Preparation

Packages must be prepared and labeled in the following sequence:
a. 5-digit: optional; red Label D or optional endorsement line (OEL).
b. 3-digit: required; green Label 3 or OEL.
c. ADC: required; pink Label A or OEL.
d. Mixed ADC: required (no minimum); tan Label MXD or OEL.

2.3 Required Sacking

A sack must be prepared when the quantity of mail for a required presort destination reaches the minimums specified in 2.4. Smaller volumes are not permitted.

2.4 Sack Preparation and Labeling

Sacks must be prepared and labeled in the following sequence:
a. 5-digit: optional, except required for 5-digit rate (10 piece minimum).
(1) Line 1, use 5-digit ZIP Code on packages, preceded for military mail by correct prefix in M031.
(2) Line 2: ''PSVC FLTS 5D NON BC.''
b. 3-digit: required; (20 piece minimum).
(1) Line 1: use L002, Column A.
(2) Line 2: ''PSVC FLTS 3D NON BC.''
c. ADC: required; (20 piece minimum).
(1) Line 1: use L004, Column B.
(2) Line 2: ''PSVC FLTS ADC NON BC.''
d. Mixed ADC: required; (no minimum).
(1) Line 1: use ''MXD'' followed by city/state/ZIP Code of ADC serving 3-digit ZIP Code prefix of entry post office, as shown in L004, Column B.
(2) Line 2: ''PSVC FLTS NON BC WKG.''

[Add new 3.0 to read as follows:]

3.0 PREPARATION—IRREGULAR PARCELS

3.1 Required Packaging

A package must be prepared when the quantity of addressed pieces for a required presort level reaches a minimum of 10 pieces, except that packaging is not required for pieces placed in 5-digit scheme sacks and 5-digit sacks when such pieces are enclosed in an envelope, full-length sleeve, full-length wrapper, or polybag and the minimum package volume is met. The maximum weight of each physical package is 20 pounds, except that 5-digit packages placed in 5-digit sacks may weigh a maximum of 40 pounds. Each physical package must contain at least two addressed pieces. Packaging is also subject to these conditions:
a. Identical-weight pieces that weigh 1 pound or less must be prepared using the 10-piece minimum; those that weigh more than 1 pound must be prepared using the 10-pound minimum.
b. For nonidentical-weight pieces, mailers must use either the minimum that applies to the average piece weight for the entire mailing (divide the net weight of the mailing by the number of pieces; the resulting average single-piece weight determines whether the 10-piece or 10-pound minimum applies) or package by the actual piece count or mail weight for each sack, if documentation can be provided with the mailing that shows (specifically for each sack) the number of pieces and their total weight.
c. Mailers must note on the accompanying postage statement whether they applied the piece count, weight, or both.

3.2 Package Preparation

Packages must be prepared and labeled in the following sequence:
a. 5-digit: required; red Label D or optional endorsement line (OEL).
b. 3-digit: required; green Label 3 or OEL.
c. ADC: required; pink Label A or OEL.
d. Mixed ADC: required (no minimum); tan Label MXD or OEL.

3.3 Required Sacking

A sack must be prepared when the quantity of mail for a required presort destination reaches either 10 addressed pieces or 20 pounds, whichever occurs first. Smaller volumes are not permitted (except in mixed ADC sacks). Optional 5-digit scheme sacks may be prepared only when there are at least 10 addressed pieces or 20 pounds, whichever occurs first. Smaller volumes are not permitted. Sacking is also subject to these conditions:
a. Identical-weight pieces weighing 2 pounds or less must be sacked using the 10-piece minimum; those that weigh more must be sacked using the 20-pound minimum.
b. For nonidentical-weight pieces, mailers must use the minimum that applies to the average piece weight for the entire mailing (divide the net weight of the mailing by the number of pieces; the resulting average single-piece weight determines whether the 10 piece or 20 pound minimum applies). Alternatively, mailers may sack by the actual piece

count or mail weight for each package destination, if documentation can be provided with the mailing that shows (specifically for each sack) the number of pieces and their total weight.

c. Mailers must note on the accompanying postage statement whether they applied the piece count, weight, or both.

3.4 Sack Preparation and Labeling

Sacks must be prepared and labeled in the following sequence:

a. 5-digit scheme: optional.

(1) Line 1: use L606, Column B.

(2) Line 2: ''PSVC IRREG 5D SCHEME'' or ''PSVC IRREG 5D SCH.''

b. 5-digit: required.

(1) Line 1: use 5-digit ZIP Code on packages, preceded for military mail by correct prefix in M031).

(2) Line 2: ''PSVC IRREG 5D.''

c. 3-digit: required.

(1) Line 1: use L002, Column A.

(2) Line 2: ''PSVC IRREG 3D.''

d. ADC: required.

(1) Line 1: use L004, Column B.

(2) Line 2: ''PSVC IRREG ADC.''

e. Mixed ADC: required; (no minimum).

(1) Line 1: use ''MXD'' followed by city/state/ZIP Code of ADC serving 3-digit ZIP Code prefix of entry post office, as shown in L004, Column B.

(2) Line 2: ''PSVC IRREG WKG.''

[Add new 4.0 to read as follows:]

4.0 PREPARATION—MACHINABLE PARCELS

4.1 Required Sacking

A sack must be prepared when the quantity of mail for a required presort destination reaches 7 addressed pieces or 20 pounds whichever occurs first for optional 5-digit scheme or 5-digit sacks, or 10 pieces or 20 pounds whichever occurs first for BMC sacks. Smaller volumes are not permitted. Sacking is also subject to these conditions:

a. Identical-weight pieces that weigh 2 pounds or less must be sacked using the 10-piece minimum; those that weigh more must be sacked using the 20-pound minimum.

b. For nonidentical-weight pieces, mailers must use either the minimum that applies to the average piece weight for the entire mailing (divide the net weight of the mailing by the number of pieces; the resulting average single-piece weight determines whether the 10-piece or 20-pound minimum applies) or sack by the actual piece count or mail weight for each package destination, provided that documentation can be provided with the mailing that shows (specifically for each sack) the number of pieces and their total weight.

c. Mailers must note on the accompanying postage statement whether they applied the piece count, weight, or both.

4.2 Sack Preparation and Labeling

Sacks must be prepared and labeled in the following sequence:

a. 5-digit scheme: optional.

(1) Line 1: use L606, Column B.

(2) Line 2: ''PSVC MACH 5D SCHEME'' or ''PSVC MACH 5D SCH.''

b. 5-digit: required.

(1) Line 1: use 5-digit ZIP Code on parcels, preceded for military mail by correct prefix in M031.

(2) Line 2: ''PSVC MACH 5D.''

c. BMC: required.

(1) Line 1: use L601, Column B.

(2) Line 2: ''PSVC MACH BMC.''

d. Mixed BMC: required; (no minimum).

(1) Line 1: ''MXD'' followed by information in L601, Column B, for BMC serving 3-digit ZIP Code of entry post office.

(2) Line 2: ''PSVC MACH WKG.''

M800 All Automation Mail

M810 Letter-Size Mail

1.0 BASIC STANDARDS

* * * * *

1.2 Mailings

The requirements for mailings are as follows:

* * * * *

[Amend 1.2b and 1.2d to replace the automation basic rate with the new AADC and mixed AADC rates to read as follows:]

b. First-Class. A single automation rate First-Class mailing may include pieces prepared at carrier route, 5-digit, 3-digit, AADC, and mixed AADC rates.

* * * * *

d. Standard Mail. Automation carrier route pieces must be prepared as a separate mailing (and meet a separate minimum volume requirement) from pieces prepared at 5-digit, 3-digit, AADC, and mixed AADC rates.

1.3 Documentation

[Amend 1.3 to remove references to the basic rate to read as follows:]

A complete, signed postage statement, using the correct USPS form or an approved facsimile, must accompany each mailing. Each mailing also must be accompanied by presort and rate documentation produced by PAVE-certified (or, except for Periodicals, MAC-certified) software or by standardized documentation under P012. Exception: For mailings of fewer than 10,000 pieces, presort and rate documentation is not required if postage at the correct rate is affixed to each piece or if each piece is of identical weight and the pieces are separated by rate level when presented for acceptance. Mailers may use a single postage statement and a single documentation report for all rate levels in a single mailing. Standard Mail mailers may use a single postage statement and a single documentation report (with a separate summary for carrier route and a separate summary for all other rate levels) for both an automation carrier route mailing and a mailing containing pieces prepared at other automation rates when both mailings are submitted for entry at the same time. Combined mailings of more than one Periodicals publication also must be documented under M230. First-Class Mail and Standard Mail mailings prepared under the value added refund procedures or as combined mailings must meet additional standardized documentation requirements under P014 and P960.

* * * * *

2.0 FIRST-CLASS MAIL AND STANDARD MAIL

* * * * *

2.3 Tray Line 2

[Amend the text of 2.3, 2.3b, and 2.3c, to change ''LTRS'' to ''LTR,'' ''CAR-RT'' to ''CR-RT,'' and to add 5-D'' to the 5-digit carrier routes tray, to read as follows:]

Line 2: ''FCM LTR'' or ''STD LTR'' and:

* * * * *

b. 5-digit carrier routes: ''5D CR–RT BC.''

c. 3-digit carrier routes: ''3D CR–RT BC.''

* * * * *

M820 Flat-Size Mail

[Amend the Summary to include Bound Printed Matter to read as follows:]

Summary

M820 describes the preparation standards for flat-size automation rate First-Class Mail, Periodicals, Standard Mail, and Bound Printed Matter.

1.0 BASIC STANDARDS

1.1 Standards

[Amend the first sentence of 1.1 by adding Bound Printed Matter to read as follows:]

Flat-size automation rate First-Class Mail, Periodicals, Standard Mail, and Bound Printed Matter must be prepared under M820 and the eligibility standards for the rate claimed. * * *

1.2 Mailings

[Amend 1.2 to replace the First-Class Mail automation basic rate with the new ADC and mixed ADC rates to read as follows:]

All pieces in a mailing must meet the standards in C820 and must be sorted together to the finest extent required. First-Class Mail mailings may include pieces prepared at automation 5-digit, 3-digit, ADC, and mixed ADC rates. Periodicals mailings may include pieces prepared at automation 5-digit, 3-digit, and basic rates. Standard Mail mailings may include pieces prepared at automation 3/5 and basic rates. The definition of a mailing and permissible combinations are in M011. Bound Printed Matter mailings may include presorted pieces claiming the barcoded discount.

* * * * *

1.4 Marking

[Amend the last sentence of 1.4 by adding the reference P700 to read as follows:]

* * * Pieces not claimed at an automation rate must not bear ''AUTO'' unless single-piece rate postage is affixed or a corrective single-piece rate marking is applied under P100, P600, or P700.

* * * * *

[Add new 6.0 for Bound Printed Matter to read as follows:]

6.0 BOUND PRINTED MATTER

6.1 Package Preparation

Packages must be prepared and labeled in the following sequence:

a. 5-digit: (minimum 10-pieces or 10 pounds, fewer not permitted, maximum weight 20 pounds); red Label D or optional endorsement line (OEL).

b. 3-digit: (minimum 10 pieces or 10 pounds, fewer not permitted, maximum weight 20 pounds); green Label 3 or OEL.

c. ADC: (minimum 10 pieces or 10 pounds, fewer not permitted, maximum weight 20 pounds); pink Label A or OEL.

d. Mixed ADC: (no minimum, maximum weight 20 pounds); tan Label MXD or OEL.

6.2 Sack Preparation and Labeling

A sack must be prepared when the quantity of mail for a required presort destination reaches 20 addressed pieces. Preparation sequence and sack labeling:

a. 5-digit: required.

(1) Line 1: use 5-digit ZIP Code on packages.

(2) Line 2: ''PSVC FLTS 5D BC.''

b. 3-digit: required.

(1) Line 1: use L002, Column A.

(2) Line 2: ''PSVC FLTS 3D BC.''

c. SCF: optional.

(1) Line 1: use L005, Column B.

(2) Line 2: ''PSVC FLTS SCF BC.''

d. ADC: required.

(1) Line 1: use L004.

(2) Line 2: ''PSVC FLTS ADC BC.''

e. Mixed ADC: required.

(1) Line 1: use ''MXD'' followed by origin facility in L802 or L803, as appropriate.

(2) Line 2: ''PSVC FLTS BC WKG.''

* * * * *

P Postage and Payment Methods

P000 Basic Information

P010 General Standards

P011 Payment 1.0

Prepayment and Postage Due

* * * * *

[Amend title and text of 1.8 to read as follows:]

1.8 Shortpaid Nonmachinable Mail

Shortpaid nonmachinable First-Class Mail is returned to the sender for additional postage.

* * * * *

P012 Documentation

* * * * *

2.0 STANDARDIZED DOCUMENTATION—FIRST-CLASS MAIL, PERIODICALS, AND STANDARD MAIL

* * * * *

2.3 Rate Level Column Headings

The actual name of the rate level (or corresponding abbreviation) is used for column headings required by 2.2 and shown below:

[Amend 2.3a to add the AADC and mixed AADC rates for automation letters and the ADC and mixed ADC rates automation for flats (the entries are added after the 3/5 rate and before the basic rate) to read as follows:]

a. Automation First-Class Mail, Periodicals, and Standard Mail:

Rate	Abbreviation
* * * * *	
AADC [First-Class Mail letters/cards and Standard Mail letters].	AB
ADC [First-Class Mail flats]	AB
Mixed AADC [First-Class Mail letters/cards and StandardMail letters].	MB
Mixed ADC [First-Class Mail flats]	MB
[Amend the entry for basic as follows:] Basic [flats].	BB
* * * * *	

* * * * *

3.0 DETAILED ZONE LISTING FOR PERIODICALS

3.1 Definition and Retention

[Amend the first sentence of 3.1 by making minor edits and adding DADC rates to read as follows:]

The publisher must be able to present documentation to support the actual number of copies of each edition of an issue, by entry point, mailed to each zone, at DDU, DSCF, DADC, and In-County rates. * * *

3.2 Characteristics

Report the number of copies mailed to each 3-digit ZIP Code prefix at applicable zone rates using one of the following formats:

* * * * *

[Amend the first sentence of 3.2b by making minor edits and adding DADC to read as follows:]

b. Report copies by zone (In-County DDU, In-County others, Outside-County DDU, Outside-County DSCF, and Outside-County DADC) and by 3-digit ZIP Code prefix, listed in ascending numeric order, for each zone. * * *

3.3 Zone Abbreviations

Use the actual rate name or the authorized zone abbreviation in the listings in 2.0 and 3.2:

[Amend the table in 3.3 to include the zone abbreviation, ''ADC'' and rate equivalent, ''outside-county, DADC'' to read as follows:]

Zone abbreviation	Rate equivalent
* * * * *	
SCF	Outside-county, DSCF
ADC	Outside-county, DADC
1–2 or 1/2	Zones 1 and 2
* * * * *	

* * * * *

P013 Rate Application and Computation

* * * * *

2.0 RATE APPLICATION—EXPRESS MAIL, FIRST-CLASS MAIL, AND PRIORITY MAIL

* * * * *

2.4 Priority Mail

[Amend 2.4 by replacing ''5 pounds'' with ''1 pound'' to read as follows:]

Except under 2.5, Priority Mail rates are charged per pound or fraction thereof; any fraction of a pound is considered a whole pound. For example, if a piece weighs 1.2 pounds, the weight (postage) increment is 2 pounds. The minimum postage amount per addressed piece is the 1-pound rate. The Priority Mail rate up to 1 pound is based solely on weight; for pieces weighing more than 1 pound, the rates are based on weight and zone.

2.5 Flat-Rate Envelope

[Amend 2.5 by changing ''2-pound'' to ''1-pound'' to read as follows:]

Each addressed Express Mail flat-rate envelope is charged the Express Mail rate applicable to a ½-pound piece regardless of its actual weight. Each addressed Priority Mail flat-rate envelope is charged the Priority Mail rate applicable to a 1-pound piece regardless of its actual weight.

2.6 Keys and Identification Devices

[Amend 2.6 by adding ''zone rate'' to the 2-pound weight to read as follows:]

Keys and identification devices weighing 13 ounces or less are charged First-Class Mail rates per ounce or fraction thereof in accordance with 2.3, plus the fee in R100.10.0. Keys and identification devices weighing more than 13 ounces but not more than 1 pound are mailed at the 1-pound Priority Mail flat rate plus the fee in R100.10.0. Keys and identification devices weighing more than 1 pound but not more than 2 pounds are subject to the 2-pound zoned rate plus the fee in R100.10.0. When the ZIP Code of mailing cannot be determined from the return address or cancellation mark for pieces subject to the Priority Mail rates, the zone 4 rate is charged for the weight of the piece.

* * * * *

5.0 RATE APPLICATION—PACKAGE SERVICES

* * * * *

5.2 Parcel Post

[Amend 5.2 by changing ''2 pounds'' to ''1 pound'' in the last sentence to read as follows:]

* * * The minimum postage rate per addressed piece is that for an addressed piece weighing 1 pound.

5.3 Single-Piece Bound Printed Matter

[Amend 5.3 by changing ''1.5 pounds'' to ''1 pound'' in the last sentence to read as follows:]

* * * The minimum postage rate per addressed piece is that for an addressed piece weighing 1 pound.

* * * * *

8.0 COMPUTING POSTAGE—STANDARD MAIL

* * * * *

[Add new 8.5 citing how to calculate the discount for heavy automation letters to read as follows:]

8.5 Discount for Heavy Automation Letters

Automation letters that weigh more than 3.3 ounces but not more than 3.5 ounces are charged postage equal to the automation piece/pound rate for that piece and receive a discount equal to the corresponding automation nonletter piece rate (3.3 ounces or less) minus the corresponding letter automation letter piece rate (3.3 ounces or less). For automation ECR pieces, postage is calculated using the regular basic piece/pound rate and the regular basic nonletter piece rate. If claiming a destination entry rate, the discount is circulated using the corresponding rates.

[Add new 8.6 citing how to calculate the discount for heavy automation-compatible letters to read as follows:]

8.6 Discount for Heavy ECR Letters

Pieces that otherwise qualify for the high density or saturation letter rate and weigh more than 3.3 ounces but not more than 3.5 ounces pay postage equal to the nonletter piece/pound rate and receive a discount equal to the corresponding nonletter piece rate (3.3 ounces or less) minus the corresponding letter piece rate (3.3 ounces or less). If claiming a destination entry rate, the discount is calculated using the corresponding rates.

* * * * *

P014 Refunds and Exchanges

* * * * *

5.0 EXPRESS MAIL POSTAGE REFUND

* * * * *

5.2 Conditions for Refund

[Revise 5.2 to read as follows:]

A refund request must be made within 90 days after the date of mailing as shown in the ''Date In'' box on Label 11. Except as provided in D500.1.6, a mailer may file for a postage refund only under one of the following circumstances.

a. The item was not delivered or made available for claim as guaranteed under the applicable service purchased.

b. The item was not delivered or made available for claim by the guaranteed delivery time applicable to the service purchased, and delivery was not attempted by the guaranteed delivery time applicable to the service purchased.

5.3 Refunds Not Given

[Amend 5.3 to read as follows:]

A refund claim will not be given if the guaranteed service was not provided due to any of the circumstances in D500.1.6.

* * * * *

P020 Postage Stamps and Stationery

P021 Stamped Stationery

* * * * *

3.0 OTHER STATIONERY

[Amend the title of 3.1 to by adding ''s'' to ''Card'' to read as follows:]

3.1 Stamped Cards

[Amend 3.1 by adding availability of stamped cards to read as follows:]Stamped cards are available as single stamped cards, double (reply) stamped cards, and in sheets of 40 for customer imprinting. Single and double stamped cards are 3½ inches high by 5½ inches long. Sheets must be cut to this size so that the stamp is in the upper right corner of each card. The USPS does not offer personalized stamped cards (cards imprinted with a return address).

* * * * *

P100 First-Class Mail

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4.0 PRESORTED RATE

* * * * *

4.2 Affixed Postage

Unless permitted by other standards or by Business Mailer Support (BMS), USPS headquarters, when precanceled postage or meter stamps are used, only one payment method may be used in a mailing and each piece must bear postage under one of these conditions:

* * * * *

[Amend 4.2b to change the ''nonstandard'' surcharge to the ''nonmachinable'' surcharge to read as follows:]

b. A precanceled stamp or the full postage at the lowest First-Class first ounce rate applicable to the mailing job, and full postage on metered pieces for any additional ounce(s) or nonmachinable surcharge; postage documentation may be required by standard.

* * * * *

5.0 AUTOMATION RATES

* * * * *

5.2 Postage Affixed, Generally

Unless permitted by other standards or by Business Mailer Support (BMS), USPS headquarters, when precanceled postage or meter stamps are used, only one payment method may be used in a mailing and each piece must bear postage under one of these conditions:

[Amend 5.2b to change the ''nonstandard'' surcharge to the ''nonmachinable'' surcharge to read as follows:]

* * * * *

b. Flat-size pieces must bear enough postage to include the nonmachinable surcharge if applicable.

* * * * *

P200 Periodicals

1.0 BASIC INFORMATION

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1.5 Postage Statement and Documentation

[Amend the second sentence of 1.5 by adding ''DADC'' to read as follows:]

* * * The postage statement must be supported by documentation as required by P012 and the rate claimed unless each piece in the mailing is of identical weight and the pieces are separated when presented for acceptance by rate, by zone (including separation by In-County and Outside-County rates), and by entry discount (i.e., DDU, DSCF, and DADC). * * *

* * * * *

[Redesignate 1.8 through 1.12 as 1.9 through 1.13, respectively. Add new 1.8 to read as follows:]

1.8 Waiving Nonadvertising Rates

Instead of marking a copy of each issue to show the advertising and nonadvertising portions, the publisher may pay postage at the advertising zoned rates on both portions of all issues or editions of a Periodicals publication (except a requester publication). This option does not apply if the rate for advertising is lower than the rate for nonadvertising. When the amount of advertising exceeds 75%, the copies provided to the postmaster must be marked ''Advertising over 75%.'' When the amount of advertising is under 75%, the copies provided to the postmaster must be marked ''Advertising not over 75%'' on the first page. The entire weight of the copy must be entered on the postage statement in the column provided for the advertising portion. The words ''Over 75%'' or ''Not over 75%'' (as applicable) must be entered on the postage statement. The word ''Waived'' must be written in the space provided for the weight of the nonadvertising portion on the postage statement.

* * * * *

2.0 MONTHLY POSTAGE STATEMENT

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[Remove 2.4 and redesignate 2.5 as 2.4.]

* * * * *

P600 Standard Mail

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2.0 PRESORTED AND ENHANCED CARRIER ROUTE RATES

2.1 Identical-Weight Pieces

[Amend 2.1 to include a reference to surcharges to read as follows:]

Mailings of identical-weight pieces may have postage affixed to each piece at the exact rate for which the piece qualifies, or each piece in the mailing may have postage affixed at the lowest rate applicable to pieces in the mailing or mailing job. Alternatively, a nondenominated precanceled stamp may be affixed to every piece in the mailing or mailing job, or each piece may bear a permit imprint. If exact postage is not affixed, all additional postage and surcharges must be paid at the time of mailing with an advance deposit account or with a meter strip affixed to the required postage statement. If exact postage is not affixed, documentation meeting the standards in P012 must be submitted to substantiate the additional postage unless the pieces are identical weight and separated by rate level at the time of mailing.

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P900 Special Postage Payment Systems

P910 Manifest Mailing System (MMS)

* * * * *

3.0 KEYLINE

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Exhibit 3.3a Rate Category Abbreviations—First-Class Mail

[Amend Exhibit 3.3a by removing the entry for automation basic; adding entries for the new AADC, ADC, mixed AADC, and mixed ADC rates to read as follows:]

Code	Rate category
AA	Automation AADC.
AD	Automation ADC.
AM	Automation Mixed AADC.
AZ	Automation Mixed ADC.

Exhibit 3.3b Rate Category Abbreviations—Standard Mail

[Amend Exhibit 3.3b by adding entries for the new AADC and mixed AADC rates to read as follows:]

Code	Rate category
AA	Automation AADC.
AM	Automation Mixed AADC.

* * * * *

P960 First-Class or Standard Mail Mailings With Different Payment Methods

* * * * *

3.0 PRODUCING THE COMBINED MAILING

3.1 Mailer Quality Control

Before merging different pieces into a combined presorted mailing, the mailer must have quality control procedures to ensure that:

* * * * *

[Amend 3.1i to clarify which markings must appear on mailpieces to read as follows:]

When markings are applied by an MLOCR, they properly show the applicable Identifier/Rate Code described in 3.2 that specifies the Product Month Designator, MASS/FASTforward system identifier, the method of postage payment, and the rate of postage affixed for metered and precanceled stamp mail or other postage information for permit imprint mail. These markings must be linked by the computer system to the rate entered by the mailer when the pieces are run through the MLOCR.

[Amend the title and contents of 3.2 to show how markings are applied to pieces in a combined mailing and to add new codes for First-Class Mail and Standard Mail to read as follows:]

3.2 Rate and Postage Marking

The following markings must be applied to each piece in the mailing when markings are applied by an MLOCR. These seven character markings provide the automation rate marking information and additional information including the Product Month Designator, MASS/FASTforward (FF) System Identifier, Manufacturer Code, and Rate Marking information. The Product Month Designator is the first character position and represents the product month of the ZIP+4 file installed with the system's lookup engine responsible for the ZIP+4 assignment. Each product month is designated by a character ''A'' through ''L'' (with ''A'' meaning January, ''B''

meaning February, etc.). The MASS/FF System Identifier is characters 2 through 4 and represents the certified system identifier responsible for the ZIP+4 assignment. There is a one-to-one relationship between the certified system serial number and the assigned identifier. The Manufacturer Code is the fifth character and is assigned at the manufacturer's discretion with one exception; the character ''Z'' is assigned when the mailpiece contains a delivery point barcode in the address block and the MLOCR does not perform a lookup but simply reproduces the address block barcode. The Rate Marking is represented in the last two characters according to the chart below. The applicable marking must appear on each mailpiece in one of the locations authorized under M012.

a. First-Class Mail.

Rate marking		Rate and postage category
Letters	Flats	
P1	F1	Barcoded 1-ounce Permit Imprint.
P2	F2	Barcoded 2-ounce Permit Imprint.
P3	F3	Barcoded 3-ounce Permit Imprint.
P4	F4	Barcoded 4-ounce Permit Imprint.
	F5	Barcoded 5-ounce Permit Imprint.
	F6	Barcoded 6-ounce Permit Imprint.
	F7	Barcoded 7-ounce Permit Imprint.
	F8	Barcoded 8-ounce Permit Imprint.
	F9	Barcoded 9-ounce Permit Imprint.
	F10	Barcoded 10-ounce Permit Imprint.
	F11	Barcoded 11-ounce Permit Imprint.
	F12	Barcoded 12-ounce Permit Imprint.
	F13	Barcoded 13-ounce Permit Imprint.
M5	MF	Barcoded 5–Digit Meter Postage Affixed.
M3	MT	Barcoded 3–Digit Meter Postage Affixed.
MA	MD	Barcoded AADC Meter Postage Affixed.
MM	MX	Barcoded Mixed AADC Meter Postage Affixed.
MP	MP	Presorted Meter Postage Affixed.
S1	.....	Precanceled $0.15 Stamp Affixed (card).
S1	.....	Precanceled $0.23 Stamp Affixed.
S2	.....	Precanceled $0.25 Stamp Affixed.

b. Standard Mail (letters only).

Rate marking	Rate and postage category
PI	Barcoded Regular Permit Imprint.
NI	Barcoded Nonprofit Permit Imprint.
M5	Barcoded 5–Digit Meter Regular Postage Affixed.
N5	Barcoded 5–Digit Meter Nonprofit Postage Affixed.
M3	Barcoded 3–Digit Meter Regular Postage Affixed.
N3	Barcoded 3–Digit Meter Nonprofit Postage Affixed.
MA	Barcoded AADC Meter Regular Postage Affixed.
NA	Barcoded AADC Meter Nonprofit Postage Affixed.
MM	Barcoded Mixed AADC Meter Regular Postage Affixed.
NM	Barcoded Mixed AADC Meter Nonprofit Postage Affixed.
M8	Presorted 3/5 Meter Regular Postage Affixed.
N8	Presorted 3/5 Meter Nonprofit Postage Affixed.
M9	Presorted Basic Meter Regular Postage Affixed.
N9	Presorted Basic Meter Nonprofit Postage Affixed.
SR	Precanceled Regular Rate Stamp Affixed.
SN	Precanceled Nonprofit Stamp Affixed.

* * * * *

R Rates and Fees

The proposed rates and fees are printed at the end of this notice.

* * * * *

S Special Services

S000 Miscellaneous Services

S010 Indemnity Claims

* * * * *

2.0 GENERAL FILING INSTRUCTIONS

* * * * *

2.12 Payable Express Mail Claims

[Amend 2.12a and 2.12a(4) by replacing $500 with $100. No other changes to text.]

* * * * *

S020 Money Orders and Other Services

1.0 ISSUING MONEY ORDERS

* * * * *

1.2 Purchase Restrictions

A postal customer may buy multiple money orders at the same time, in the same or differing amounts, subject to these restrictions:

[Amend item 1.2a by increasing the maximum amount of a single money order from $700 to $1,000 to read as follows:]

a. The maximum amount of any single money order is $1,000.

* * * * *

S500 Special Services for Express Mail

1.0 AVAILABLE SERVICES

* * * * *

1.5 Insurance and Indemnity

Express Mail is insured against loss, damage, or rifling, subject to these standards:

* * * * *

[Amend 1.5c by changing ''$500'' to ''$100'' to read as follows:]

c. Merchandise insurance coverage is provided against loss, damage, or rifling and is limited to a maximum liability of $100. (Additional insurance under 1.6 may be purchased up to a maximum coverage of $5,000 for merchandise valued at more than $100.) Nonnegotiable documents are insured against loss, damage, or rifling, up to $100 per piece, subject to the maximum limit per occurrence as defined in S010.

* * * * *

1.6 Additional Insurance

[Amend the first sentence of 1.6 by replacing ''$500'' with ''$100'' to read as follows:]

Additional insurance, up to a maximum coverage of $5,000, may be purchased for merchandise valued at more than $100 sent by Express Mail.

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* * * * *

S900 Special Postal Services

S910 Security and Accountability

S911 Registered Mail

1.0 BASIC INFORMATION

* * * * *

[Redesignate 1.5 as 1.6. Add new 1.5 to read as follows:]

1.5 Service Option

Mailers can access delivery information on the Internet at www.usps.com by providing the article number of the registered mailpiece.

* * * * *

S912 Certified Mail

1.0 BASIC INFORMATION

* * * * *

[Redesignate 1.3 through 1.7 as 1.4 through 1.8, respectively, and add new 1.3 to read as follows:]

1.3 Service Option

Mailers can access delivery information on the Internet at

www.usps.com by providing the article number of the certified mailpiece.

* * * * *

S915 Return Receipt

1.0 BASIC INFORMATION

* * * * *

[Redesignate 1.3 through 1.7 as 1.4 through 1.8, respectively, and add new 1.3 to read as follows:]

1.3 Service Option

Electronic return receipts are available to mailers who provide an e-mail address at the point of purchase, or preregister on the Internet at www.usps.com. The delivery date, time, ZIP Code, and a digitized image of the recipient's signature are sent automatically to the sender by secure e-mail after delivery of the mail (available Fall 2002).

* * * * *

2.0 OBTAINING SERVICE

* * * * *

2.2 After Mailing

[Amend the first paragraph of 2.2 to read as follows:]

The mailer may request a delivery record after mailing for Express Mail, certified mail, registered mail, COD mail, and mail insured for more than $50. When a delivery record is available, the USPS provides the mailer information from that record, including to whom the mail was delivered, the signature, and the date of delivery. The mailer requests a delivery record by completing Form 3811–A, paying the appropriate fee in R900, and submitting the request to the appropriate office as follows: * * *

* * * * *

[Delete 2.2b, redesignate item 2.2c as 2.2b, and revise to read as follows:]

b. For all other items, send the form to any post office.

[Redesignate 2.3 as 2.4 and add new 2.3 to read as follows:]

2.3 Internet Purchase of Return Receipt After Mailing

Return receipts after mailing will be available for purchase over the Internet at www.usps.com using a credit card. The mailer initiates the request and fills out the necessary information on the Internet. Once the request is made, delivery and signature information is sent to the mailer via fax or mail (available Fall 2002).

* * * * *

S918 Delivery Confirmation

1.0 BASIC INFORMATION

* * * * *

1.2 Eligible Matter

[Amend 1.2 by adding First-Class Mail parcels and limiting Package Services to parcels to read as follows:]

Delivery Confirmation service is available for First-Class Mail parcels, Priority Mail items, Standard Mail pieces subject to the residual shape surcharge (electronic option only), and Package Services parcels (electronic option only). For the purposes of adding Delivery Confirmation service, a First-Class Mail or Package Services parcel must meet the definition in C100.5.0 or C700.1.0, as appropriate.

* * * * *

S919 Signature Confirmation

1.0 BASIC INFORMATION

* * * * *

1.2 Eligible Matter

[Amend 1.2 by adding First-Class Mail parcels and limiting Package Services to parcels to read as follows:]

Signature Confirmation is available for First-Class Mail parcels, Priority Mail items, and Package Services parcels. For the purposes of adding Signature Confirmation service, a First-Class Mail or Package Services parcel must meet the definition in C100.5.0 or C700.1.0, as appropriate.

* * * * *

The proposed rate and fees that would be printed as the R Module follow:

BILLING CODE 7710–12–P

R000 Stamps and Stationery

1.0 PLAIN STAMPED ENVELOPES (P021)

Fee, in addition to the postage value preprinted on the envelope:

Type	Fee	
	Each	500
Basic,[1] size 6-3/4	$0.08	$12.00
Basic,[1] size 10	0.08	14.00

1. Includes regular, window, precanceled regular, and precanceled window envelopes.

2.0 PERSONALIZED STAMPED ENVELOPES (P021)

Fee, in addition to the postage value preprinted on the envelope:

Type	Fee	
	50	500
Basic,[1] size 6-3/4	$3.50	$17.00
Basic,[1] size 10	3.50	20.00

1. Includes regular, window, precanceled regular, and precanceled window envelopes.

3.0 STAMPED CARDS (P021)

Fee, in addition to the postage value preprinted on the card:

Type	Fee
Single card	$0.02
Double card	0.04
Sheet of 40 cards (uncut)	0.80

4.0 POSTAGE STAMPS

Postage stamps are available in the following denominations:

Form Per Purpose	Denomination
Regular Postage	
Panes of up to 100	to be determined
Booklets	to be determined
Coils of 100	to be determined
Coils of 3,000	to be determined
Coils of 10,000	to be determined
Precanceled Presorted Rate Postage — First-Class Mail and Standard Mail	
Coils of 500, 3,000, and 10,000	Various nondenominated (available only to permit holders)
Commemorative	
Panes of up to 50	to be determined
20-Stamp Booklets	to be determined
Breast Cancer Research	
Panes of up to 20	Purchase price of $0.40; postage value equivalent to First-Class Mail nonautomation single-piece rate ($0.37); remainder is contribution to fund breast cancer research.

R100 First-Class Mail

1.0 NONAUTOMATION—SINGLE PIECE

Cards 1.1

Cards meeting the standards in C100: $0.23 each.

Letters, Flats, and Parcels 1.2

Letters, flats, and parcels; nonmachinable surcharge in 11.0 might apply:

Weight Increment	Rate
First ounce or fraction of an ounce	$0.37
Each additional ounce or fraction	0.23

2.0 NONAUTOMATION—PRESORTED

Cards 2.1

Cards meeting the standards in C100: $0.212 each.

Letters, Flats, and Parcels 2.2

Letters, flats, and parcels; nonmachinable surcharge in 11.0 might apply:

Weight Increment	Rate
First ounce or fraction of an ounce	
(For pieces weighing 2 ounces or less)	$0.352
(For pieces weighing more than 2 ounces)	0.311
Each additional ounce or fraction	0.225

3.0 AUTOMATION—QUALIFIED BUSINESS REPLY MAIL

Cards 3.1

Cards meeting the standards in E150 and S922, in addition to the fees in R900: $0.200 each.

Letters 3.2

Letter-size single pieces meeting the standards in E150 and S922:

Weight Increment	Rate[1]
First ounce or fraction of an ounce	$0.340
Second ounce or fraction	0.230

1. QBRM is also subject to fees in R900.

4.0 AUTOMATION—MIXED AADC & MIXED ADC

Cards 4.1 Cards meeting the standards in C100: $0.194 each.

Letters 4.2 Letter-size pieces:

Weight Increment	Rate
First ounce or fraction of an ounce	
(For pieces weighing 2 ounces or less)	$0.309
(For pieces weighing more than 2 ounces)	0.268
Each additional ounce or fraction	0.225

Flats 4.3 Flat-size pieces; nonmachinable surcharge in 11.0 might apply:

Weight Increment	Rate
First ounce or fraction of an ounce	
(For pieces weighing 2 ounces or less)	$0.341
(For pieces weighing more than 2 ounces)	0.300
Each additional ounce or fraction	0.225

5.0 AUTOMATION—AADC & ADC

Cards 5.1 Cards meeting the standards in C100: $0.187 each.

Letters 5.2 Letter-size pieces:

Weight Increment	Rate
First ounce or fraction of an ounce	
(For pieces weighing 2 ounces or less)	$0.301
(For pieces weighing more than 2 ounces)	0.260
Each additional ounce or fraction	0.225

Flats 5.3 Flat-size pieces; nonmachinable surcharge in 11.0 might apply:

Weight Increment	Rate
First ounce or fraction of an ounce	
(For pieces weighing 2 ounces or less)	$0.333
(For pieces weighing more than 2 ounces)	0.292
Each additional ounce or fraction	0.225

6.0 AUTOMATION—3-DIGIT

Cards 6.1 Cards meeting the standards in C100: $0.183 each.

Letters 6.2 Letter-size pieces:

Weight Increment	Rate
First ounce or fraction of an ounce	
(For pieces weighing 2 ounces or less)	$0.292
(For pieces weighing more than 2 ounces)	0.251
Each additional ounce or fraction	0.225

Flats 6.3 Flat-size pieces; nonmachinable surcharge in 11.0 might apply:

Weight Increment	Rate
First ounce or fraction of an ounce	
(For pieces weighing 2 ounces or less)	$0.322
(For pieces weighing more than 2 ounces)	0.281
Each additional ounce or fraction	0.225

7.0 AUTOMATION—5-DIGIT

Cards 7.1 Cards meeting the standards in C100: $0.176 each.

Letters 7.2 Letter-size pieces:

Weight Increment	Rate
First ounce or fraction of an ounce	
(For pieces weighing 2 ounces or less)	$0.278
(For pieces weighing more than 2 ounces)	0.237
Each additional ounce or fraction	0.225

Flats 7.3 Flat-size pieces; nonmachinable surcharge in 11.0 might apply:

Weight Increment	Rate
First ounce or fraction of an ounce	
(For pieces weighing 2 ounces or less)	$0.302
(For pieces weighing more than 2 ounces)	0.261
Each additional ounce or fraction	0.225

8.0 AUTOMATION—CARRIER ROUTE

Cards 8.1 Cards meeting the standards in C100: $0.170 each.

Letters 8.2 Letter-size pieces:

Weight Increment	Rate
First ounce or fraction of an ounce	
(For pieces weighing 2 ounces or less)	$0.275
(For pieces weighing more than 2 ounces)	0.234
Each additional ounce or fraction	0.225

Summary—Single-Piece and Presorted
8.3

Weight Not Over (ounces)	Nonautomation[1] Single-Piece	Presorted
Letters, Flats, and Parcels		
1	$0.370	$0.352
2	0.600	0.577
3[2]	0.830	0.761
4	1.060	0.986
5	1.290	1.211
6	1.520	1.436
7	1.750	1.661
8	1.980	1.886
9	2.210	2.111
10	2.440	2.336
11	2.670	2.561
12	2.900	2.786
13	3.130	3.011
Cards[3]	0.230	0.212

1. Nonmachinable surcharge in 11.0 might apply to pieces that weigh 1 ounce or less: single-piece $0.12; presorted $0.055.
2. Presorted rates for pieces weighing over 2 ounces reflect a discount of $0.041 per piece.
3. Rates shown apply to each single or double postcard when originally mailed; reply half of double postcard must bear postage at applicable rate when returned unless prepared as business reply mail.

Summary—Automation
8.4

Weight Not Over (ounces)	Letters[1] Mixed AADC	AADC	3-Digit	5-Digit	Carrier Route	Flats[2] Mixed ADC	ADC	3-Digit	5-Digit
Letters, Flats, and Parcels									
1	$0.309	$0.301	$0.292	$0.278	$0.275	$0.341	$0.333	$0.322	$0.302
2	0.534	0.526	0.517	0.503	0.500	0.566	0.558	0.547	0.527
3[3]	0.718	0.710	0.701	0.687	0.684	0.750	0.742	0.731	0.711
4	0.943	0.935	0.926	0.912	0.909	0.975	0.967	0.956	0.936
5	—	—	—	—	—	1.200	1.192	1.181	1.161
6	—	—	—	—	—	1.425	1.417	1.406	1.386
7	—	—	—	—	—	1.650	1.642	1.631	1.611
8	—	—	—	—	—	1.875	1.867	1.856	1.836
9	—	—	—	—	—	2.100	2.092	2.081	2.061
10	—	—	—	—	—	2.325	2.317	2.306	2.286
11	—	—	—	—	—	2.550	2.542	2.531	2.511
12	—	—	—	—	—	2.775	2.767	2.756	2.736
13	—	—	—	—	—	3.000	2.992	2.981	2.961
Cards[4]	0.194	0.187	0.183	0.176	0.170	—	—	—	—

1. Weight cannot exceed 3.3 ounces
2. Nonmachinable surcharge in 11.0 might apply to pieces that weigh 1 ounce or less: $0.055 per piece.
3. Automation rates for pieces weighing over 2 ounces reflect a discount of $0.041 per piece.
4. Rates shown apply to each single or double postcard when originally mailed; reply half of double postcard must bear postage at applicable rate when returned unless prepared as business reply mail.

9.0 PRIORITY MAIL

Parcels that weigh less than 15 pounds but measure more than 84 inches in combined length and girth are charged the applicable rate for a 15-pound parcel.

The 1-pound rate is charged for matter sent in a Priority Mail flat-rate envelope provided by the USPS, regardless of the actual weight of the piece.

Weight Not Over (pounds)	Zones Local, 1, 2, & 3	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8
1	$3.85	$3.85	$3.85	$3.85	$3.85	$3.85
2	3.95	4.55	4.90	5.05	5.40	5.75
3	4.75	6.05	6.85	7.15	7.85	8.55
4	5.30	7.05	8.05	8.50	9.45	10.35
5	5.85	8.00	9.30	9.85	11.00	12.15
6	6.30	8.85	9.90	10.05	11.30	12.30
7	6.80	9.80	10.65	11.00	12.55	14.05
8	7.35	10.75	11.45	11.95	13.80	15.75
9	7.90	11.70	12.20	12.90	15.05	17.50
10	8.40	12.60	13.00	14.00	16.30	19.20
11	8.95	13.35	13.75	15.15	17.55	20.90
12	9.50	14.05	14.50	16.30	18.80	22.65
13	10.00	14.75	15.30	17.50	20.05	24.35
14	10.55	15.45	16.05	18.60	21.25	26.05
15	11.05	16.20	16.85	19.75	22.50	27.80
16	11.60	16.90	17.60	20.85	23.75	29.50
17	12.15	17.60	18.35	22.05	25.00	31.20
18	12.65	18.30	19.30	23.15	26.25	32.95
19	13.20	19.00	20.20	24.30	27.50	34.65
20	13.75	19.75	21.15	25.35	28.75	36.40
21	14.25	20.45	22.05	26.55	30.00	38.10
22	14.80	21.15	22.95	27.65	31.20	39.80
23	15.30	21.85	23.90	28.80	32.45	41.55
24	15.85	22.55	24.85	29.90	33.70	43.25
25	16.40	23.30	25.75	31.10	34.95	44.95
26	16.90	24.00	26.60	32.25	36.20	46.70
27	17.45	24.70	27.55	33.35	37.45	48.40
28	18.00	25.40	28.50	34.50	38.70	50.15
29	18.50	26.15	29.45	35.60	39.95	51.85
30	19.05	26.85	30.35	36.80	41.20	53.55
31	19.55	27.55	31.20	37.85	42.40	55.30
32	20.10	28.25	32.15	39.00	43.65	57.00
33	20.65	28.95	33.10	40.10	44.90	58.70
34	21.15	29.70	34.00	41.25	46.15	60.45
35	21.70	30.40	34.95	42.40	47.40	62.15

Weight Not Over (pounds)	Zones Local, 1, 2, & 3	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8
36	$22.25	$31.10	$35.85	$43.55	$48.65	$63.85
37	22.75	31.95	36.80	44.65	49.90	65.60
38	23.30	32.65	37.70	45.85	51.15	67.30
39	23.75	33.50	38.65	47.00	52.40	69.05
40	24.25	34.30	39.60	48.10	53.60	70.75
41	24.70	35.00	40.45	49.25	54.85	72.45
42	25.20	35.85	41.35	50.30	56.15	74.20
43	25.65	36.60	42.30	51.50	57.40	75.90
44	26.15	37.40	43.25	52.60	58.70	77.60
45	26.60	38.20	44.15	53.75	59.95	79.35
46	27.10	39.00	45.05	54.85	61.20	81.05
47	27.55	39.75	46.00	56.05	62.50	82.75
48	28.05	40.60	46.95	57.20	63.75	84.50
49	28.50	41.35	47.80	58.30	65.05	86.20
50	28.95	42.15	48.75	59.45	66.30	87.95
51	29.45	42.95	49.65	60.55	67.55	89.65
52	29.90	43.75	50.60	61.75	68.80	91.35
53	30.40	44.50	51.50	62.85	70.05	93.10
54	30.85	45.25	52.45	63.95	71.30	94.80
55	31.35	46.10	53.40	65.05	72.50	96.50
56	31.80	46.85	54.25	66.25	73.75	98.25
57	32.30	47.65	55.15	67.35	75.00	99.95
58	32.75	48.45	56.10	68.50	76.25	101.65
59	33.25	49.25	57.05	69.60	77.50	103.40
60	33.70	50.00	58.00	70.80	78.75	105.10
61	34.20	50.85	58.85	71.95	80.00	106.85
62	34.65	51.55	59.80	73.05	81.25	108.55
63	35.15	52.40	60.75	74.20	82.50	110.25
64	35.60	53.20	61.70	75.35	83.70	112.00
65	36.10	53.90	62.50	76.45	84.95	113.70
66	36.55	54.75	63.45	77.55	86.20	115.40
67	37.05	55.60	64.40	78.70	87.45	117.15
68	37.50	56.30	65.35	79.80	88.70	118.85
69	38.00	57.10	66.25	81.00	89.95	120.55
70	38.45	57.95	67.15	82.10	91.20	122.30

100

10.0 KEYS AND IDENTIFICATION DEVICES

Weight Not Over (ounces)	Rate[1]
1[2]	$0.97
2	1.20
3	1.43
4	1.66
5	1.89
6	2.12
7	2.35
8	2.58
9	2.81
10	3.04
11	3.27
12	3.50
13	3.73
1 pound	4.45
2 pounds	(zoned)[3]

1. Includes $0.60 fee.
2. Nonmachinable surcharge in 11.0 might apply.
3. For pieces that weigh up to 2 pounds, use the zoned 2-pound Priority Mail rate plus the $0.60 fee.

11.0 NONMACHINABLE SURCHARGES

Surcharge per piece (see C050.2.2, E130, and E140):

a. Single-piece rate: $0.12.

b. Presorted and automation rate: $0.055.

12.0 FEES

Presort Mailing Fee 12.1

Presort mailing fee, per 12-month period, per office of mailing: $150.00.

Pickup Fee 12.2

Priority Mail only, per occurrence: $12.50.

May be combined with Express Mail and Package Services pickups (see D010).

R200 Periodicals

1.0 OUTSIDE-COUNTY—EXCLUDING SCIENCE-OF-AGRICULTURE

Pound Rates 1.1

Per pound or fraction:

a. For the nonadvertising portion: $0.193.

b. For the advertising portion:

Zone	Rate
DDU	$0.158
DSCF	0.203
DADC	0.223
1 & 2	0.248
3	0.267
4	0.315
5	0.389
6	0.466
7	0.559
8	0.638

Piece Rates 1.2

Per addressed piece:

		Automation[1]	
Presort Level	Nonautomation	Letter-Size	Flat-Size
Basic	$0.373	$0.281	$0.325
3-Digit	0.324	0.249	0.283
5-Digit	0.258	0.195	0.226
Carrier Route			
Basic	0.163	—	—
High Density	0.131	—	—
Saturation	0.112	—	—

1. Lower maximum weight limits apply: letter-size at 3 ounces (or 3.3 ounces for heavy letters); flat-size at 16 ounces (FSM 881) and 6 pounds (FSM 1000).

Discounts 1.3

Piece rate discounts:

a. Nonadvertising adjustment for each 1% of nonadvertising content: $0.00074 per piece.

b. Destination delivery unit discount for each addressed piece: $0.018.

c. Destination SCF discount for each addressed piece: $0.008.

d. Destination ADC discount for each addressed piece: $0.002.

e. Destination entry pallet discount for each addressed piece: $0.015.

f. Pallet discount (for other than 1.3e) for each addressed piece: $0.005.

Classroom 1.5 Authorized Classroom mailers receive a discount of 5% off the total Outside-County postage excluding the postage for advertising pounds. The 5% discount does not apply to commingled nonsubscriber copies in excess of the 10% allowance provided under E215.

2.0 OUTSIDE-COUNTY—SCIENCE-OF-AGRICULTURE

Pound Rates 2.1 Per pound or fraction:

a. For the nonadvertising portion: $0.193.

b. For the advertising portion:

Zone	Rate
DDU	$0.119
DSCF	0.152
DADC	0.167
1 & 2	0.186
3	0.267
4	0.315
5	0.389
6	0.466
7	0.559
8	0.638

Piece Rates 2.2 Per addressed piece:

		Automation[1]	
Presort Level	Nonautomation	Letter-Size	Flat-Size
Basic	$0.373	$0.281	$0.325
3-Digit	0.324	0.249	0.283
5-Digit	0.258	0.195	0.226
Carrier Route			
Basic	0.163	—	—
High Density	0.131	—	—
Saturation	0.112	—	—

1. Lower maximum weight limits apply: letter-size at 3 ounces (or 3.3 ounces for heavy letters); flat-size at 16 ounces (FSM 881) and 6 pounds (FSM 1000).

Discounts 2.3

Piece rate discounts:

a. Nonadvertising adjustment for each 1% of nonadvertising content: $0.00074 per piece.

b. Destination delivery unit discount for each addressed piece: $0.018.

c. Destination SCF discount for each addressed piece: $0.008.

d. Destination ADC discount for each addressed piece: $0.002.

e. Destination entry pallet discount for each addressed piece: $0.015.

f. Pallet discount (for other than 2.3e) for each addressed piece: $0.005.

3.0 IN-COUNTY

Pound Rates 3.1

Per pound or fraction:

Zone	Rate
DDU	$0.112
All Other	0.146

Piece Rates 3.2

Per addressed piece:

		Automation[1]	
Presort Level	Nonautomation	Letter-Size	Flat-Size
Basic	$0.106	$0.050	$0.077
3-Digit	0.097	0.048	0.073
5-Digit	0.087	0.046	0.067
Carrier Route			
Basic	0.050	—	—
High Density	0.034	—	—
Saturation	0.028	—	—

1. Lower maximum weight limits apply: letter-size at 3 ounces (or 3.3 ounces for heavy letters); flat-size at 16 ounces (FSM 881) and 6 pounds (FSM 1000).

Discount 3.3

Destination delivery unit discount for each addressed piece: $0.006.

4.0 RIDE-ALONG RATE (E260)

Rate per ride-along piece: $0.124.

5.0 FEES

Per application:

a. Original entry: $375.00.

b. News agent registry: $40.00.

c. Additional entry: $60.00.

d. Reentry: $40.00.

200

R500 Express Mail

1.0 EXPRESS MAIL—ALL SERVICE LEVELS

The 1/2-pound rate is charged for matter sent in an Express Mail flat-rate envelope provided by the USPS, regardless of the actual weight of the piece.

Weight Not Over (pounds)	Service[1]			Weight Not Over (pounds)	Service[1]		
	Custom Designed	Next Day & Second Day PO to PO	Next Day & Second Day PO to Addressee		Custom Designed	Next Day & Second Day PO to PO	Next Day & Second Day PO to Addressee
1/2	$10.70	$10.40	$13.65	36	$73.75	$73.45	$76.70
1	14.90	14.60	17.85	37	75.40	75.10	78.35
2	14.90	14.60	17.85	38	77.20	76.90	80.15
3	18.10	17.80	21.05	39	78.95	78.65	81.90
4	21.25	20.95	24.20	40	80.75	80.45	83.70
5	24.35	24.05	27.30	41	82.55	82.25	85.50
6	27.45	27.15	30.40	42	84.40	84.10	87.35
7	30.50	30.20	33.45	43	86.10	85.80	89.05
8	31.80	31.50	34.75	44	87.85	87.55	90.80
9	33.25	32.95	36.20	45	89.45	89.15	92.40
10	34.55	34.25	37.50	46	90.80	90.50	93.75
11	36.25	35.95	39.20	47	92.45	92.15	95.40
12	38.90	38.60	41.85	48	93.90	93.60	96.85
13	40.80	40.50	43.75	49	95.30	95.00	98.25
14	41.85	41.55	44.80	50	96.80	96.50	99.75
15	43.15	42.85	46.10	51	98.40	98.10	101.35
16	44.70	44.40	47.65	52	99.80	99.50	102.75
17	46.20	45.90	49.15	53	101.35	101.05	104.30
18	47.60	47.30	50.55	54	102.80	102.50	105.75
19	49.05	48.75	52.00	55	104.30	104.00	107.25
20	50.50	50.20	53.45	56	105.85	105.55	108.80
21	51.95	51.65	54.90	57	107.30	107.00	110.25
22	53.40	53.10	56.35	58	108.85	108.55	111.80
23	54.90	54.60	57.85	59	110.45	110.15	113.40
24	56.30	56.00	59.25	60	112.20	111.90	115.15
25	57.70	57.40	60.65	61	114.10	113.80	117.05
26	59.20	58.90	62.15	62	115.85	115.55	118.80
27	60.60	60.30	63.55	63	117.55	117.25	120.50
28	62.10	61.80	65.05	64	119.50	119.20	122.45
29	63.55	63.25	66.50	65	121.20	120.90	124.15
30	65.00	64.70	67.95	66	123.10	122.80	126.05
31	66.45	66.15	69.40	67	124.80	124.50	127.75
32	67.95	67.65	70.90	68	126.70	126.40	129.65
33	69.30	69.00	72.25	69	128.45	128.15	131.40
34	70.85	70.55	73.80	70	130.25	129.95	133.20
35	72.20	71.90	75.15				

1. Same Day Airport service is currently suspended.

2.0	**FEES**
Pickup Fee 2.1	Per occurrence: $12.50. May be combined with Priority Mail and Package Services pickups (see D010).
Fee for Delivery Stops 2.2	Custom Designed Service only, each: $12.50.

R600 Standard Mail

1.0 REGULAR STANDARD MAIL

Letters—3.3 oz. or Less
1.1

For pieces 3.3 ounces (0.2063 pound) or less:

	Presorted[1]		Automation[2]			
Entry Discount	Basic	3/5	Mixed AADC	AADC	3-Digit	5-Digit
None	$0.268	$0.248	$0.219	$0.212	$0.203	$0.190
DBMC	0.247	0.227	0.198	0.191	0.182	0.169
DSCF	0.242	0.222	0.193	0.186	0.177	0.164

1. Nonmachinable letters are subject to a $0.04 nonmachinable surcharge.
2. See 1.3 for automation letters weighing over 3.3 ounces.

Nonletters—3.3 oz. or Less
1.2

For pieces 3.3 ounces (0.2063 pound) or less:

	Presorted[1,2]		Automation	
Entry Discount	Basic	3/5	Basic	3/5
None	$0.344	$0.288	$0.300	$0.261
DBMC	0.323	0.267	0.279	0.240
DSCF	0.318	0.262	0.274	0.235

1. The residual shape surcharge of $0.23 per piece applies to items that are prepared as a parcel or are not letter-size or flat-size.
2. Machinable parcels for which the residual shape surcharge is paid may be eligible for the barcoded discount of $0.03 per piece (see E620). The barcoded discount is available for pieces entered at DSCF rates only if sorted to 5-digit sacks or pallets. Except for mail entered at the Phoenix, AZ, ASF, the barcoded discount is not available for DBMC rate mail entered at an ASF.

Letters and Nonletters—More Than 3.3 oz.
1.3

For pieces more than 3.3 ounces (0.2063 pound). Each piece is subject to both a piece rate and a pound rate.

	Presorted[1,2]		Automation[3]	
Piece/Pound Rate	Basic	3/5	Basic	3/5
Per Piece	$0.198	$0.142	$0.154	$0.115
PLUS	PLUS	PLUS	PLUS	PLUS
Per Pound				
None	$0.708	$0.708	$0.708	$0.708
DBMC	0.608	0.608	0.608	0.608
DSCF	0.583	0.583	0.583	0.583

1. Residual shape surcharge of $0.23 per piece applies to items that are prepared as a parcel or are not letter-size or flat-size.
2. Machinable parcels for which the residual shape surcharge is paid may be eligible for the barcoded discount of $0.03 per piece (see E620). The barcoded discount is available for pieces entered at DSCF rates only if sorted to 5-digit sacks or pallets. Except for mail entered at the Phoenix, AZ, ASF, the barcoded discount is not available for DBMC rate mail entered at an ASF.
3. Letters that weigh up to 3.5 ounces receive a discount that equals the applicable nonletter piece rate (3.3 oz. or less) minus the applicable letter piece rate (3.3 oz. or less).

2.0 ENHANCED CARRIER ROUTE STANDARD MAIL

Letters—3.3 oz. or Less 2.1

For pieces 3.3 ounces (0.2063 pound) or less:

Entry Discount	Basic	High Density[1]	Saturation[1]	Automation Basic
None	$0.194	$0.164	$0.152	$0.171
DBMC	0.173	0.143	0.131	0.150
DSCF	0.168	0.138	0.126	0.145
DDU	0.162	0.132	0.120	0.139

1. See 2.3 for letters weighing over 3.3 ounces.

Nonletters—3.3 oz. or Less 2.2

For pieces 3.3 ounces (0.2063 pound) or less. Residual shape surcharge of $0.20 per piece applies to items that are prepared as a parcel or are not letter-size or flat-size.

Entry Discount	Basic	High Density	Saturation
None	$0.194	$0.169	$0.160
DBMC	0.173	0.148	0.139
DSCF	0.168	0.143	0.134
DDU	0.162	0.137	0.128

Letters and Nonletters—More Than 3.3 oz. 2.3

For pieces more than 3.3 ounces (0.2063 pound). Each piece is subject to both a piece rate and a pound rate. Residual shape surcharge of $0.20 per piece applies to items that are prepared as a parcel or are not letter-size or flat-size.

Piece/Pound Rate	Basic	High Density[1]	Saturation[1]
Per Piece	$0.068	$0.043	$0.034
PLUS	PLUS	PLUS	PLUS
Per Pound			
None	$0.610	$0.610	$0.610
DBMC	0.510	0.510	0.510
DSCF	0.485	0.485	0.485
DDU	0.453	0.453	0.453

1. Letter-rate pieces that weigh up to 3.5 ounces receive a discount that equals the applicable nonletter piece rate (3.3 oz. or less) minus the applicable letter piece rate (3.3 oz. or less).

3.0 NONPROFIT STANDARD MAIL

Letters—3.3 oz. or Less
3.1

For pieces 3.3 ounces (0.2063 pound) or less:

	Presorted[1]		Automation[2]			
Entry Discount	Basic	3/5	Mixed AADC	AADC	3-Digit	5-Digit
None	$0.165	$0.153	$0.144	$0.136	$0.129	$0.114
DBMC	0.144	0.132	0.123	0.115	0.108	0.093
DSCF	0.139	0.127	0.118	0.110	0.103	0.088

1. Nonmachinable letters are subject to a $0.02 nonmachinable surcharge.
2. See 1.3 for automation letters weighing over 3.3 ounces.

Nonletters—3.3 oz. or Less
3.2

For pieces 3.3 ounces (0.2063 pound) or less:

	Presorted[1,2]		Automation	
Entry Discount	Basic	3/5	Basic	3/5
None	$0.230	$0.183	$0.189	$0.166
DBMC	0.209	0.162	0.168	0.145
DSCF	0.204	0.157	0.163	0.140

1. Residual shape surcharge of $0.23 per piece applies to items that are prepared as a parcel or are not letter-size or flat-size.
2. Machinable parcels for which the residual shape surcharge is paid may be eligible for the barcoded discount of $0.03 per piece (see E620). The barcoded discount is available for pieces entered at DSCF rates only if sorted to 5-digit sacks or pallets. Except for mail entered at the Phoenix, AZ, ASF, the barcoded discount is not available for DBMC rate mail entered at an ASF.

Letters and Nonletters—More Than 3.3 oz.
3.3

For pieces more than 3.3 ounces (0.2063 pound). Each piece is subject to both a piece rate and a pound rate.

	Presorted[1,2]		Automation[3]	
Piece/Pound Rate	Basic	3/5	Basic	3/5
Per Piece	$0.110	$0.063	$0.069	$0.046
PLUS	PLUS	PLUS	PLUS	PLUS
Per Pound				
None	$0.584	$0.584	$0.584	$0.584
DBMC	0.484	0.484	0.484	0.484
DSCF	0.459	0.459	0.459	0.459

1. Residual shape surcharge of $0.23 per piece applies to items that are prepared as a parcel or are not letter-size or flat-size.
2. Machinable parcels for which the residual shape surcharge is paid may be eligible for the barcoded discount of $0.03 per piece (see E620). The barcoded discount is available for pieces entered at DSCF rates only if sorted to 5-digit sacks or pallets. Except for mail entered at the Phoenix, AZ, ASF, the barcoded discount is not available for DBMC rate mail entered at an ASF.
3. Letters that weigh up to 3.5 ounces receive a discount that equals the applicable nonletter piece rate (3.3 oz. or less) minus the applicable letter rate (3.3 oz. or less).

600

4.0 NONPROFIT ENHANCED CARRIER ROUTE STANDARD MAIL

Letters—3.3 oz. or Less 4.1

For pieces 3.3 ounces (0.2063 pound) or less:

Entry Discount	Basic	High Density[1]	Saturation[1]	Automation Basic
None	$0.126	$0.102	$0.095	$0.111
DBMC	0.105	0.081	0.074	0.090
DSCF	0.100	0.076	0.069	0.085
DDU	0.094	0.070	0.063	0.079

1. See 4.3 for letters weighing over 3.3 ounces.

Nonletters 3.3 oz. or Less 4.2

For pieces 3.3 ounces (0.2063 pound) or less. Residual shape surcharge of $0.20 per piece applies to items that are prepared as a parcel or are not letter-size or flat-size.

Entry Discount	Basic	High Density	Saturation
None	$0.126	$0.110	$0.104
DBMC	0.105	0.089	0.083
DSCF	0.100	0.084	0.078
DDU	0.094	0.078	0.072

Letters and Nonletters—More Than 3.3 oz. 4.3

For pieces more than 3.3 ounces (0.2063 pound). Each piece is subject to both a piece rate and a pound rate. Residual shape surcharge of $0.20 per piece applies to items that are prepared as a parcel or are not letter-size or flat-size.

Piece/Pound Rate	Basic	High Density[1]	Saturation[1]
Per Piece	$0.050	$0.034	$0.028
PLUS	PLUS	PLUS	PLUS
Per Pound			
None	$0.370	$0.370	$0.370
DBMC	0.270	0.270	0.270
DSCF	0.245	0.245	0.245
DDU	0.213	0.213	0.213

1. Letter-rate pieces that weigh up to 3.5 ounces receive a discount that equals the applicable nonletter piece rate (3.3 oz. or less) minus the applicable letter piece rate (3.3 oz. or less).

5.0 NONMACHINABLE SURCHARGE

Surcharge per piece:

a. Presorted Regular: $0.04.

b. Presorted nonprofit: $0.02.

6.0 RESIDUAL SHAPE SURCHARGE

Items that are prepared as a parcel or are neither letter-size nor flat-size, per piece:

Rate Category	Surcharge
Presorted Regular and Nonprofit	$0.23
Enhanced Carrier Route and Nonprofit Enhanced Carrier Route	0.20

7.0 BARCODED DISCOUNT

Deduct $0.03 per piece for machinable parcels with a barcode.

8.0 FEES

Mailing Fee 8.1 Mailing fee, per 12-month period: $150.00.

Weighted Fee 8.2 For return of pieces bearing the ancillary service markings "Address Service Requested" and "Forwarding Service Requested":

Single-Piece Weight Not Over (ounces)	**Weighted Fee per Piece**[1]
1	$0.92
2	1.49
3	2.06
4	2.63
5	3.19
6	3.76
7	4.33
8	4.90
9	5.47
10	6.04
11	6.61
12	7.17
13	7.74
Over 13 but under 16	9.52

1. Weighted fee equals single-piece First-Class Mail or Priority Mail rate multiplied by 2.472 (see F010).

600

R700 Package Services

1.0 PARCEL POST

Inter-BMC/ASF Machinable Parcel Post 1.1

For barcoded discount, deduct $0.03 per parcel (machinable parcels only, 50-piece minimum).
For OBMC Presort discount, deduct $1.17 per parcel. For BMC Presort discount, deduct $0.28 per parcel.
Parcels that weigh less than 15 pounds but measure more than 84 inches (but not more than 108 inches) in combined length and girth are charged the applicable rate for a 15-pound parcel.
Regardless of weight, a parcel that meets any of the criteria in C700.2.0 must pay the rate for a nonmachinable parcel in 1.2.

Weight Not Over (pounds)	Zones 1 & 2	Zone 3	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8
1	$3.69	$3.75	$3.75	$3.75	$3.75	$3.75	$3.75
2	3.85	3.85	4.14	4.14	4.49	4.49	4.49
3	4.65	4.65	5.55	5.65	5.71	5.77	6.32
4	4.86	5.20	6.29	6.93	7.14	7.20	7.87
5	5.03	5.71	6.94	7.75	8.58	8.64	9.43
6	5.63	6.01	7.44	8.50	9.52	9.90	11.49
7	5.80	6.28	7.91	9.20	10.35	11.39	12.83
8	5.98	6.53	8.30	9.84	11.11	12.54	15.04
9	6.11	6.76	8.74	10.45	11.83	13.38	17.04
10	6.28	7.57	9.10	11.01	12.50	14.17	18.14
11	6.41	7.80	9.47	11.54	13.13	14.92	19.15
12	6.54	8.01	9.80	12.04	13.72	15.62	20.10
13	6.67	8.19	10.12	12.51	14.28	16.27	20.99
14	6.80	8.42	10.43	12.95	14.81	16.90	21.84
15	6.92	8.61	10.73	13.38	15.31	17.49	22.64
16	7.02	8.79	11.00	13.78	15.79	18.05	23.41
17	7.15	8.94	11.28	14.16	16.24	18.59	24.13
18	7.25	9.11	11.52	14.52	16.68	19.09	24.82
19	7.37	9.28	11.77	14.87	17.09	19.58	25.48
20	7.46	9.43	11.98	15.20	17.48	20.05	26.12
21	7.57	9.59	12.20	15.52	17.86	20.49	26.72
22	7.66	9.72	12.42	15.82	18.22	20.92	27.30
23	7.76	9.89	12.65	16.11	18.57	21.32	27.85
24	7.83	10.01	12.83	16.39	18.90	21.72	28.39
25	7.93	10.14	13.03	16.66	19.22	22.09	28.90
26	8.01	10.27	13.21	16.92	19.53	22.46	29.39
27	8.11	10.40	13.38	17.17	19.83	22.81	29.87
28	8.18	10.52	13.58	17.41	20.11	23.14	30.32
29	8.27	10.65	13.75	17.64	20.39	23.47	30.76
30	8.35	10.76	13.90	17.87	20.65	23.78	31.19
31	8.44	10.86	14.06	18.08	20.91	24.08	31.60
32	8.50	10.99	14.22	18.29	21.16	24.37	32.00
33	8.58	11.10	14.38	18.49	21.40	24.65	32.38
34	8.66	11.18	14.51	18.69	21.63	24.93	32.75
35	8.74	11.30	14.66	18.88	21.85	25.19	33.11

For parcels that weigh more than 35 pounds, see 1.2.

1.2 Inter-BMC/ASF Nonmachinable Parcel Post

Rates shown include the $2.75 nonmachinable surcharge. The nonmachinable surcharge does not apply to parcels mailed at oversized rates or parcels sent with special handling. Regardless of weight, a parcel that meets any of the criteria in C700.2.0 must pay the rate listed in this table.

For OBMC Presort discount, deduct $1.17 per parcel. For BMC Presort discount, deduct $0.28 per parcel.

Parcels that weigh less than 15 pounds but measure more than 84 inches (but not more than 108 inches) in combined length and girth are charged the applicable rate for a 15-pound parcel.

Regardless of weight, a parcel that measures more than 108 inches (but not more than 130 inches) in combined length and girth must pay the oversized rate.

Weight Not Over (pounds)	Zones 1 & 2	Zone 3	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8
1	$6.44	$6.50	$6.50	$6.50	$6.50	$6.50	$6.50
2	6.60	6.60	6.89	6.89	7.24	7.24	7.24
3	7.40	7.40	8.30	8.40	8.46	8.52	9.07
4	7.61	7.95	9.04	9.68	9.89	9.95	10.62
5	7.78	8.46	9.69	10.50	11.33	11.39	12.18
6	8.38	8.76	10.19	11.25	12.27	12.65	14.24
7	8.55	9.03	10.66	11.95	13.10	14.14	15.58
8	8.73	9.28	11.05	12.59	13.86	15.29	17.79
9	8.86	9.51	11.49	13.20	14.58	16.13	19.79
10	9.03	10.32	11.85	13.76	15.25	16.92	20.89
11	9.16	10.55	12.22	14.29	15.88	17.67	21.90
12	9.29	10.76	12.55	14.79	16.47	18.37	22.85
13	9.42	10.94	12.87	15.26	17.03	19.02	23.74
14	9.55	11.17	13.18	15.70	17.56	19.65	24.59
15	9.67	11.36	13.48	16.13	18.06	20.24	25.39
16	9.77	11.54	13.75	16.53	18.54	20.80	26.16
17	9.90	11.69	14.03	16.91	18.99	21.34	26.88
18	10.00	11.86	14.27	17.27	19.43	21.84	27.57
19	10.12	12.03	14.52	17.62	19.84	22.33	28.23
20	10.21	12.18	14.73	17.95	20.23	22.80	28.87
21	10.32	12.34	14.95	18.27	20.61	23.24	29.47
22	10.41	12.47	15.17	18.57	20.97	23.67	30.05
23	10.51	12.64	15.40	18.86	21.32	24.07	30.60
24	10.58	12.76	15.58	19.14	21.65	24.47	31.14
25	10.68	12.89	15.78	19.41	21.97	24.84	31.65
26	10.76	13.02	15.96	19.67	22.28	25.21	32.14
27	10.86	13.15	16.13	19.92	22.58	25.56	32.62
28	10.93	13.27	16.33	20.16	22.86	25.89	33.07
29	11.02	13.40	16.50	20.39	23.14	26.22	33.51
30	11.10	13.51	16.65	20.62	23.40	26.53	33.94
31	11.19	13.61	16.81	20.83	23.66	26.83	34.35
32	11.25	13.74	16.97	21.04	23.91	27.12	34.75
33	11.33	13.85	17.13	21.24	24.15	27.40	35.13
34	11.41	13.93	17.26	21.44	24.38	27.68	35.50
35	11.49	14.05	17.41	21.63	24.60	27.94	35.86
36	11.55	14.14	17.57	21.81	24.82	28.20	36.20

Weight Not Over (pounds)	Zones 1 & 2	Zone 3	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8
37	$11.62	$14.23	$17.68	$21.98	$25.03	$28.44	$36.54
38	11.69	14.35	17.82	22.16	25.23	28.68	36.87
39	11.77	14.42	17.94	22.32	25.43	28.92	37.18
40	11.84	14.53	18.07	22.48	25.62	29.14	37.49
41	11.92	14.63	18.19	22.64	25.81	29.36	37.79
42	11.98	14.71	18.31	22.79	25.99	29.57	38.08
43	12.03	14.80	18.43	22.94	26.16	29.78	38.36
44	12.10	14.87	18.54	23.08	26.33	29.98	38.63
45	12.16	14.97	18.66	23.22	26.50	30.18	38.89
46	12.23	15.05	18.77	23.36	26.66	30.37	39.15
47	12.31	15.14	18.87	23.49	26.81	30.55	39.40
48	12.36	15.22	18.99	23.61	26.97	30.73	39.64
49	12.41	15.30	19.09	23.74	27.11	30.90	39.88
50	12.47	15.36	19.17	23.86	27.26	31.07	40.11
51	12.54	15.45	19.29	23.98	27.40	31.24	40.34
52	12.59	15.53	19.38	24.09	27.54	31.40	40.55
53	12.66	15.59	19.45	24.20	27.67	31.56	40.77
54	12.71	15.69	19.56	24.31	27.80	31.71	40.97
55	12.76	15.72	19.66	24.42	27.92	31.86	41.18
56	12.84	15.83	19.74	24.52	28.05	32.00	41.37
57	12.89	15.89	19.84	24.62	28.17	32.14	41.57
58	12.94	15.96	19.91	24.72	28.28	32.28	41.75
59	13.01	16.02	20.01	24.82	28.40	32.42	41.94
60	13.06	16.09	20.10	24.91	28.51	32.55	42.11
61	13.14	16.18	20.17	25.00	28.62	32.67	42.29
62	13.19	16.23	20.25	25.09	28.72	32.80	42.46
63	13.22	16.31	20.34	25.18	28.83	32.92	42.62
64	13.27	16.36	20.41	25.26	28.93	33.04	42.78
65	13.33	16.43	20.49	25.35	29.03	33.16	42.94
66	13.40	16.50	20.56	25.43	29.12	33.27	43.10
67	13.46	16.56	20.64	25.51	29.22	33.38	43.25
68	13.50	16.62	20.73	25.59	29.31	33.49	43.39
69	13.55	16.67	20.80	25.66	29.40	33.59	43.54
70	13.61	16.75	20.87	25.73	29.49	33.70	43.68
Oversized	41.70	46.73	54.12	65.84	79.69	92.81	120.72

Intra-BMC/ASF Machinable Parcel Post
1.3

For parcels that originate and destinate in the same BMC service area.

For barcoded discount, deduct $0.03 per parcel (machinable parcels only if part of a mailing of at least 50 pieces).

Parcels that weigh less than 15 pounds but measure more than 84 inches (but not more than 108 inches) in combined length and girth are charged the applicable rate for a 15-pound parcel.

Regardless of weight, a parcel that meets any of the criteria in C700.2.0 must pay the rate for a nonmachinable parcel in 1.4.

Weight Not Over (pounds)	Local Zone	Zones 1 & 2	Zone 3	Zone 4	Zone 5
1	$2.81	$2.96	$2.99	$3.05	$3.14
2	3.13	3.53	3.56	3.63	3.74
3	3.44	4.08	4.11	4.20	4.32
4	3.73	4.28	4.62	4.72	4.86
5	3.99	4.45	5.02	5.15	5.35
6	4.23	4.61	5.38	5.51	5.80
7	4.36	4.76	5.69	5.84	6.21
8	4.46	5.33	5.98	6.14	6.60
9	4.56	5.46	6.22	6.45	6.95
10	4.66	5.63	6.53	6.74	7.28
11	4.74	5.76	6.74	7.00	7.58
12	4.84	5.91	6.94	7.26	7.87
13	4.92	6.04	7.10	7.50	8.13
14	5.00	6.16	7.22	7.75	8.38
15	5.08	6.27	7.39	7.96	8.62
16	5.17	6.38	7.56	8.16	8.84
17	5.23	6.51	7.72	8.38	9.05
18	5.30	6.60	7.87	8.57	9.24
19	5.36	6.72	8.02	8.75	9.43
20	5.46	6.82	8.16	8.91	9.60
21	5.51	6.91	8.30	9.06	9.77
22	5.57	7.02	8.42	9.20	9.92
23	5.64	7.10	8.58	9.34	10.07
24	5.70	7.19	8.70	9.46	10.22
25	5.77	7.27	8.82	9.58	10.35
26	5.82	7.37	8.93	9.71	10.48
27	5.88	7.45	9.06	9.82	10.60
28	5.94	7.52	9.18	9.91	10.72
29	6.01	7.61	9.30	10.02	10.83
30	6.08	7.69	9.40	10.12	10.93
31	6.13	7.77	9.48	10.21	11.04
32	6.18	7.86	9.60	10.31	11.13
33	6.25	7.92	9.70	10.39	11.23
34	6.30	8.00	9.78	10.47	11.31
35	6.35	8.06	9.89	10.55	11.40

For parcels that weigh more than 35 pounds, see 1.4.

Intra-BMC/ASF Nonmachinable Parcel Post

1.4 Rates shown include the $1.35 nonmachinable surcharge. The nonmachinable surcharge does not apply to parcels mailed at oversized rates or parcels sent with special handling. Regardless of weight, a parcel that meets any of the criteria in C700.2.0 must pay the rate listed in this table.

Parcels that weigh less than 15 pounds but measure more than 84 inches (but not more than 108 inches) in combined length and girth are charged the applicable rate for a 15-pound parcel.

Regardless of weight, a parcel that measures more than 108 inches (but not more than 130 inches) in combined length and girth must pay the oversized rate.

Weight Not Over (pounds)	Local Zone	Zones 1&2	Zone 3	Zone 4	Zone 5
1	$4.16	$4.31	$4.34	$4.40	$4.49
2	4.48	4.88	4.91	4.98	5.09
3	4.79	5.43	5.46	5.55	5.67
4	5.08	5.63	5.97	6.07	6.21
5	5.34	5.80	6.37	6.50	6.70
6	5.58	5.96	6.73	6.86	7.15
7	5.71	6.11	7.04	7.19	7.56
8	5.81	6.68	7.33	7.49	7.95
9	5.91	6.81	7.57	7.80	8.30
10	6.01	6.98	7.88	8.09	8.63
11	6.09	7.11	8.09	8.35	8.93
12	6.19	7.26	8.29	8.61	9.22
13	6.27	7.39	8.45	8.85	9.48
14	6.35	7.51	8.57	9.10	9.73
15	6.43	7.62	8.74	9.31	9.97
16	6.52	7.73	8.91	9.51	10.19
17	6.58	7.86	9.07	9.73	10.40
18	6.65	7.95	9.22	9.92	10.59
19	6.71	8.07	9.37	10.10	10.78
20	6.81	8.17	9.51	10.26	10.95
21	6.86	8.26	9.65	10.41	11.12
22	6.92	8.37	9.77	10.55	11.27
23	6.99	8.45	9.93	10.69	11.42
24	7.05	8.54	10.05	10.81	11.57
25	7.12	8.62	10.17	10.93	11.70
26	7.17	8.72	10.28	11.06	11.83
27	7.23	8.80	10.41	11.17	11.95
28	7.29	8.87	10.53	11.26	12.07
29	7.36	8.96	10.65	11.37	12.18
30	7.43	9.04	10.75	11.47	12.28
31	7.48	9.12	10.83	11.56	12.39
32	7.53	9.21	10.95	11.66	12.48
33	7.60	9.27	11.05	11.74	12.58
34	7.65	9.35	11.13	11.82	12.66
35	7.70	9.41	11.24	11.90	12.75
36	7.75	9.48	11.32	11.97	12.83
37	$7.79	$9.57	$11.41	$12.05	$12.91
38	7.84	9.63	11.50	12.12	12.98
39	7.91	9.71	11.60	12.18	13.05
40	7.96	9.76	11.67	12.24	13.12
41	8.02	9.85	11.78	12.30	13.19
42	8.07	9.90	11.85	12.37	13.25
43	8.12	9.96	11.93	12.43	13.30
44	8.19	10.03	12.01	12.49	13.35
45	8.23	10.08	12.08	12.65	13.40
46	8.27	10.17	12.17	12.70	13.45
47	8.33	10.24	12.23	12.75	13.50
48	8.38	10.29	12.32	12.79	13.55
49	8.42	10.36	12.39	12.84	13.60
50	8.47	10.39	12.46	12.88	13.65
51	8.53	10.48	12.52	12.93	13.70
52	8.56	10.54	12.62	12.97	13.75
53	8.61	10.57	12.67	13.00	13.80
54	8.67	10.63	12.71	13.05	13.85
55	8.72	10.69	12.75	13.10	13.90
56	8.75	10.75	12.79	13.14	13.95
57	8.80	10.82	12.81	13.16	14.00
58	8.85	10.87	12.85	13.20	14.05
59	8.90	10.92	12.88	13.24	14.10
60	8.92	10.99	12.91	13.26	14.15
61	9.01	11.05	12.94	13.30	14.20
62	9.03	11.10	12.97	13.36	14.25
63	9.08	11.15	12.99	13.43	14.30
64	9.13	11.21	13.01	13.48	14.35
65	9.17	11.26	13.05	13.54	14.40
66	9.20	11.33	13.07	13.61	14.45
67	9.27	11.39	13.10	13.68	14.50
68	9.31	11.41	13.11	13.72	14.55
69	9.32	11.48	13.13	13.79	14.60
70	9.33	11.53	13.16	13.85	14.65
Oversized	23.78	34.47	34.79	35.48	36.53

Parcel Select — DBMC
1.5

Destination facility ZIP Codes only.

For barcoded discount, deduct $0.03 per parcel (machinable parcels only). Except for mail entered at the Phoenix, AZ, ASF, the barcoded discount is not available for DBMC mail entered at an ASF.

Parcels that weigh less than 15 pounds but measure more than 84 inches (but not more than 108 inches) in combined length and girth are charged the applicable rate for a 15-pound parcel.

Regardless of weight, a parcel that measures more than 108 inches (but not more than 130 inches) in combined length and girth must pay the oversized rate.

For nonmachinable Parcel Select DBMC parcels, add $1.45 per parcel. Any parcel that weighs more than 35 pounds or that meets any of the criteria in C700.2.0 must pay the nonmachinable surcharge. The nonmachinable surcharge does not apply to parcels mailed at oversized rates or parcels sent with special handling.

Weight Not Over (pounds)	Zones 1 & 2	Zone 3	Zone 4	Zone 5
1	$2.01	$2.26	$2.49	$3.09
2	2.24	2.76	3.19	3.69
3	2.49	3.27	3.84	4.28
4	2.72	3.75	4.41	4.81
5	2.94	4.20	4.82	5.30
6	3.15	4.60	5.16	5.75
7	3.34	4.96	5.47	6.18
8	3.53	5.32	5.76	6.56
9	3.71	5.64	6.05	6.91
10	3.88	5.97	6.71	7.24
11	4.04	6.27	6.96	7.54
12	4.20	6.56	7.22	7.84
13	4.35	6.80	7.46	8.10
14	4.50	6.92	7.71	8.35
15	4.64	7.08	7.92	8.58
16	4.77	7.24	8.13	8.81
17	4.91	7.39	8.35	9.01
18	5.03	7.54	8.53	9.21
19	5.16	7.68	8.72	9.40
20	5.28	7.82	8.88	9.56
21	5.40	7.96	9.02	9.73
22	5.51	8.08	9.17	9.89
23	5.62	8.23	9.31	10.05
24	5.73	8.34	9.43	10.18
25	5.84	8.46	9.55	10.32
26	5.94	8.56	9.67	10.45
27	6.05	8.69	9.78	10.57
28	6.14	8.81	9.88	10.68
29	6.24	8.92	10.00	10.79
30	6.34	9.02	10.09	10.90
31	6.43	9.10	10.17	11.01
32	6.52	9.21	10.27	11.11
33	6.61	9.30	10.38	11.19
34	6.70	9.39	10.43	11.28
35	6.78	9.49	10.52	11.37
36	6.87	9.94	10.60	11.45
37	$6.95	$10.03	$10.66	$11.53
38	7.03	10.12	10.74	11.60
39	7.11	10.21	10.80	11.68
40	7.19	10.29	10.86	11.74
41	7.27	10.40	10.92	11.80
42	7.34	10.47	10.99	11.87
43	7.42	10.56	11.05	12.16
44	7.49	10.63	11.11	12.45
45	7.56	10.69	11.26	12.76
46	7.63	10.79	11.31	13.06
47	7.70	10.85	11.36	13.37
48	7.77	10.94	11.41	13.69
49	7.84	11.01	11.46	14.01
50	7.91	11.08	11.50	14.35
51	7.97	11.15	11.55	14.68
52	8.04	11.23	11.59	15.02
53	8.10	11.28	11.63	15.38
54	8.16	11.33	11.68	15.74
55	8.23	11.37	11.73	15.89
56	8.29	11.40	11.75	15.96
57	8.35	11.43	11.78	16.06
58	8.41	11.47	11.82	16.14
59	8.47	11.50	11.85	16.21
60	8.52	11.53	11.88	16.30
61	8.58	11.56	11.92	16.38
62	8.64	11.59	11.98	16.44
63	8.69	11.61	12.05	16.52
64	8.75	11.64	12.10	16.59
65	8.80	11.67	12.16	16.65
66	8.86	11.70	12.24	16.74
67	8.91	11.72	12.29	16.79
68	8.96	11.73	12.34	16.86
69	9.01	11.75	12.40	16.93
70	9.06	11.77	12.47	16.99
Oversized	18.14	24.33	32.81	34.10

Parcel Select—DSCF

1.6

Destination facility ZIP Codes only.

Parcels that weigh less than 15 pounds but measure more than 84 inches (but not more than 108 inches) in combined length and girth are charged the applicable rate for a 15-pound parcel.

Regardless of weight, a parcel that measures more than 108 inches (but not more than 130 inches) in combined length and girth must pay the oversized rate.

For nonmachinable parcels sorted to 3-digit ZIP Code areas, add $1.09 per parcel. Any parcel that weighs more than 35 pounds or that meets any of the criteria in C700.2.0 must pay the nonmachinable surcharge. The nonmachinable surcharge does not apply to parcels mailed at oversized rates or parcels sent with special handling.

Weight Not Over (pounds)	DSCF
1	$1.53
2	1.71
3	1.85
4	1.99
5	2.12
6	2.24
7	2.35
8	2.45
9	2.56
10	2.65
11	2.74
12	2.83
13	2.92
14	3.00
15	3.10
16	3.19
17	3.28
18	3.36
19	3.45
20	3.53
21	3.61
22	3.68
23	3.76
24	3.83

Weight Not Over (pounds)	DSCF
25	$3.90
26	3.97
27	4.04
28	4.11
29	4.17
30	4.24
31	4.30
32	4.36
33	4.42
34	4.48
35	4.54
36	4.59
37	4.65
38	4.70
39	4.76
40	4.81
41	4.86
42	4.91
43	4.96
44	5.01
45	5.06
46	5.11
47	5.16
48	5.20

Weight Not Over (pounds)	DSCF
49	$5.25
50	5.29
51	5.34
52	5.38
53	5.42
54	5.46
55	5.51
56	5.55
57	5.59
58	5.63
59	5.67
60	5.71
61	5.74
62	5.78
63	5.82
64	5.86
65	5.89
66	5.93
67	5.97
68	6.00
69	6.04
70	6.07
Oversized	11.95

Parcel Select—DDU

1.7

Destination facility ZIP Codes only.

Parcels that weigh less than 15 pounds but measure more than 84 inches (but not more than 108 inches) in combined length and girth are charged the applicable rate for a 15-pound parcel.

Regardless of weight, a parcel that measures more than 108 inches (but not more than 130 inches) in combined length and girth must pay the oversized rate.

Weight Not Over (pounds)	DDU
1	$1.23
2	1.28
3	1.33
4	1.38
5	1.43
6	1.47
7	1.51
8	1.55
9	1.58
10	1.62
11	1.65
12	1.68
13	1.71
14	1.74
15	1.77
16	1.79
17	1.82
18	1.85
19	1.87
20	1.89
21	1.92
22	1.94
23	1.96
24	1.98

Weight Not Over (pounds)	DDU
25	$2.00
26	2.02
27	2.04
28	2.06
29	2.07
30	2.09
31	2.10
32	2.11
33	2.12
34	2.13
35	2.14
36	2.15
37	2.16
38	2.17
39	2.18
40	2.19
41	2.20
42	2.21
43	2.22
44	2.23
45	2.24
46	2.25
47	2.26
48	2.27

Weight Not Over (pounds)	DDU
49	$2.28
50	2.29
51	2.30
52	2.31
53	2.32
54	2.33
55	2.34
56	2.35
57	2.36
58	2.37
59	2.38
60	2.39
61	2.40
62	2.41
63	2.42
64	2.43
65	2.44
66	2.45
67	2.46
68	2.47
69	2.48
70	2.49
Oversized	6.98

2.0 BOUND PRINTED MATTER

Single-Piece—Flats 2.1

For barcoded discount, deduct $0.03 per piece (automatable flats only if part of a mailing of at least 50 pieces).

Weight Not Over (pounds)	Zones Local, 1 & 2	Zone 3	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8
1.0	$1.79	$1.84	$1.88	$1.96	$2.03	$2.12	$2.29
1.5	1.79	1.84	1.88	1.96	2.03	2.12	2.29
2.0	1.86	1.92	1.98	2.08	2.18	2.30	2.52
2.5	1.93	2.01	2.08	2.21	2.33	2.48	2.76
3.0	2.00	2.09	2.18	2.33	2.48	2.66	2.99
3.5	2.07	2.18	2.28	2.46	2.63	2.84	3.23
4.0	2.14	2.26	2.38	2.58	2.78	3.02	3.46
4.5	2.21	2.35	2.48	2.71	2.93	3.20	3.70
5.0	2.28	2.43	2.58	2.83	3.08	3.38	3.93
6.0	2.42	2.60	2.78	3.08	3.38	3.74	4.40
7.0	2.56	2.77	2.98	3.33	3.68	4.10	4.87
8.0	2.70	2.94	3.18	3.58	3.98	4.46	5.34
9.0	2.84	3.11	3.38	3.83	4.28	4.82	5.81
10.0	2.98	3.28	3.58	4.08	4.58	5.18	6.28
11.0	3.12	3.45	3.78	4.33	4.88	5.54	6.75
12.0	3.26	3.62	3.98	4.58	5.18	5.90	7.22
13.0	3.40	3.79	4.18	4.83	5.48	6.26	7.69
14.0	3.54	3.96	4.38	5.08	5.78	6.62	8.16
15.0	3.68	4.13	4.58	5.33	6.08	6.98	8.63

Single-Piece—Parcels 2.2

For barcoded discount, deduct $0.03 per parcel (machinable parcels only if part of a mailing of at least 50 pieces).

Weight Not Over (pounds)	Zones Local, 1 & 2	Zone 3	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8
1.0	$1.87	$1.92	$1.96	$2.04	$2.11	$2.20	$2.37
1.5	1.87	1.92	1.96	2.04	2.11	2.20	2.37
2.0	1.94	2.00	2.06	2.16	2.26	2.38	2.60
2.5	2.01	2.09	2.16	2.29	2.41	2.56	2.84
3.0	2.08	2.17	2.26	2.41	2.56	2.74	3.07
3.5	2.15	2.26	2.36	2.54	2.71	2.92	3.31
4.0	2.22	2.34	2.46	2.66	2.86	3.10	3.54
4.5	2.29	2.43	2.56	2.79	3.01	3.28	3.78
5.0	2.36	2.51	2.66	2.91	3.16	3.46	4.01
6.0	2.50	2.68	2.86	3.16	3.46	3.82	4.48
7.0	2.64	2.85	3.06	3.41	3.76	4.18	4.95
8.0	2.78	3.02	3.26	3.66	4.06	4.54	5.42
9.0	2.92	3.19	3.46	3.91	4.36	4.90	5.89
10.0	3.06	3.36	3.66	4.16	4.66	5.26	6.36
11.0	3.20	3.53	3.86	4.41	4.96	5.62	6.83
12.0	3.34	3.70	4.06	4.66	5.26	5.98	7.30
13.0	3.48	3.87	4.26	4.91	5.56	6.34	7.77
14.0	3.62	4.04	4.46	5.16	5.86	6.70	8.24
15.0	3.76	4.21	4.66	5.41	6.16	7.06	8.71

Presorted and Carrier Route—Flats
2.3

Each piece is subject to both a piece rate and a pound rate.

For barcoded discount on Presorted pieces, deduct $0.03 per piece. Barcoded discount is not available for pieces mailed at carrier route rates.

Rate	Zones Local, 1 & 2	Zone 3	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8
Per Piece							
Presorted	$1.078	$1.078	$1.078	$1.078	$1.078	$1.078	$1.078
Carrier Route	0.978	0.978	0.978	0.978	0.978	0.978	0.978
Per Pound	0.090	0.112	0.149	0.198	0.248	0.308	0.419

Presorted and Carrier Route—Parcels
2.4

Each piece is subject to both a piece rate and a pound rate.

For barcoded discount on Presorted pieces, deduct $0.03 per piece. Barcoded discount is not available for parcels mailed at carrier route rates.

Rate	Zones Local, 1 & 2	Zone 3	Zone 4	Zone 5	Zone 6	Zone 7	Zone 8
Per Piece							
Presorted	$1.155	$1.155	$1.155	$1.155	$1.155	$1.155	$1.155
Carrier Route	1.055	1.055	1.055	1.055	1.055	1.055	1.055
Per Pound	0.090	0.112	0.149	0.198	0.248	0.308	0.419

Destination Entry Rates—Flats
2.5

Each piece is subject to both a piece rate and a pound rate.

For barcoded discount on Presorted pieces, deduct $0.03 per piece (automatable flats only). Barcoded discount is not available for pieces mailed at carrier route rates.

Presorted DDU rate is not available for flats that weigh 1 pound or less.

Rate	DDU	DSCF	DBMC Zone 1 & 2	DBMC Zone 3	DBMC Zone 4	DBMC Zone 5
Per Piece						
Presorted	$0.532	$0.603	$0.818	$0.818	$0.818	$0.818
Carrier Route	0.432	0.503	0.718	0.718	0.718	0.718
Per Pound	0.030	0.060	0.073	0.102	0.139	0.187

Destination Entry Rates—Parcels
2.6

Each piece is subject to both a piece rate and a pound rate.

For barcoded discount on Presorted pieces, deduct $0.03 per piece (machinable parcels only). Except for mail entered at the Phoenix, AZ, ASF, the barcoded discount is not available for DBMC mail entered at an ASF. Barcoded discount is not available for parcels mailed at carrier route rates.

Rate	DDU	DSCF	DBMC Zone 1 & 2	DBMC Zone 3	DBMC Zone 4	DBMC Zone 5
Per Piece						
Presorted	$0.609	$0.680	$0.895	$0.895	$0.895	$0.895
Carrier Route	0.509	0.580	0.795	0.795	0.795	0.795
Per Pound	0.030	0.060	0.073	0.102	0.139	0.187

700

3.0 MEDIA MAIL

For barcoded discount for single-piece and basic rate, deduct $0.03 per parcel (machinable parcels only if part of a mailing of at least 50 pieces). Barcoded discount is not available for pieces sent at the 5-digit rate.

Weight Not Over (pounds)	Single-Piece	5-Digit	Basic
1	$1.42	$0.80	$1.12
2	1.84	1.22	1.54
3	2.26	1.64	1.96
4	2.68	2.06	2.38
5	3.10	2.48	2.80
6	3.52	2.90	3.22
7	3.94	3.32	3.64
8	4.24	3.62	3.94
9	4.54	3.92	4.24
10	4.84	4.22	4.54
11	5.14	4.52	4.84
12	5.44	4.82	5.14
13	5.74	5.12	5.44
14	6.04	5.42	5.74
15	6.34	5.72	6.04
16	6.64	6.02	6.34
17	6.94	6.32	6.64
18	7.24	6.62	6.94
19	7.54	6.92	7.24
20	7.84	7.22	7.54
21	8.14	7.52	7.84
22	8.44	7.82	8.14
23	8.74	8.12	8.44
24	9.04	8.42	8.74
25	9.34	8.72	9.04
26	9.64	9.02	9.34
27	9.94	9.32	9.64
28	10.24	9.62	9.94
29	10.54	9.92	10.24
30	10.84	10.22	10.54
31	11.14	10.52	10.84
32	11.44	10.82	11.14
33	11.74	11.12	11.44
34	12.04	11.42	11.74
35	12.34	11.72	12.04
36	$12.64	$12.02	$12.34
37	12.94	12.32	12.64
38	13.24	12.62	12.94
39	13.54	12.92	13.24
40	13.84	13.22	13.54
41	14.14	13.52	13.84
42	14.44	13.82	14.14
43	14.74	14.12	14.44
44	15.04	14.42	14.74
45	15.34	14.72	15.04
46	15.64	15.02	15.34
47	15.94	15.32	15.64
48	16.24	15.62	15.94
49	16.54	15.92	16.24
50	16.84	16.22	16.54
51	17.14	16.52	16.84
52	17.44	16.82	17.14
53	17.74	17.12	17.44
54	18.04	17.42	17.74
55	18.34	17.72	18.04
56	18.64	18.02	18.34
57	18.94	18.32	18.64
58	19.24	18.62	18.94
59	19.54	18.92	19.24
60	19.84	19.22	19.54
61	20.14	19.52	19.84
62	20.44	19.82	20.14
63	20.74	20.12	20.44
64	21.04	20.42	20.74
65	21.34	20.72	21.04
66	21.64	21.02	21.34
67	21.94	21.32	21.64
68	22.24	21.62	21.94
69	22.54	21.92	22.24
70	22.84	22.22	22.54

4.0 LIBRARY MAIL

For barcoded discount for single-piece and basic rate, deduct $0.03 per parcel (machinable parcels only if part of a mailing of at least 50 pieces). Barcoded discount is not available for pieces sent at the 5-digit rate.

Weight Not Over (pounds)	Single-Piece	5-Digit	Basic
1	$1.35	$0.76	$1.06
2	1.75	1.16	1.46
3	2.15	1.56	1.86
4	2.55	1.96	2.26
5	2.95	2.36	2.66
6	3.35	2.76	3.06
7	3.75	3.16	3.46
8	4.04	3.45	3.75
9	4.33	3.74	4.04
10	4.62	4.03	4.33
11	4.91	4.32	4.62
12	5.20	4.61	4.91
13	5.49	4.90	5.20
14	5.78	5.19	5.49
15	6.07	5.48	5.78
16	6.36	5.77	6.07
17	6.65	6.06	6.36
18	6.94	6.35	6.65
19	7.23	6.64	6.94
20	7.52	6.93	7.23
21	7.81	7.22	7.52
22	8.10	7.51	7.81
23	8.39	7.80	8.10
24	8.68	8.09	8.39
25	8.97	8.38	8.68
26	9.26	8.67	8.97
27	9.55	8.96	9.26
28	9.84	9.25	9.55
29	10.13	9.54	9.84
30	10.42	9.83	10.13
31	10.71	10.12	10.42
32	11.00	10.41	10.71
33	11.29	10.70	11.00
34	11.58	10.99	11.29
35	11.87	11.28	11.58
36	$12.16	$11.57	$11.87
37	12.45	11.86	12.16
38	12.74	12.15	12.45
39	13.03	12.44	12.74
40	13.32	12.73	13.03
41	13.61	13.02	13.32
42	13.90	13.31	13.61
43	14.19	13.60	13.90
44	14.48	13.89	14.19
45	14.77	14.18	14.48
46	15.06	14.47	14.77
47	15.35	14.76	15.06
48	15.64	15.05	15.35
49	15.93	15.34	15.64
50	16.22	15.63	15.93
51	16.51	15.92	16.22
52	16.80	16.21	16.51
53	17.09	16.50	16.80
54	17.38	16.79	17.09
55	17.67	17.08	17.38
56	17.96	17.37	17.67
57	18.25	17.66	17.96
58	18.54	17.95	18.25
59	18.83	18.24	18.54
60	19.12	18.53	18.83
61	19.41	18.82	19.12
62	19.70	19.11	19.41
63	19.99	19.40	19.70
64	20.28	19.69	19.99
65	20.57	19.98	20.28
66	20.86	20.27	20.57
67	21.15	20.56	20.86
68	21.44	20.85	21.15
69	21.73	21.14	21.44
70	22.02	21.43	21.73

700

5.0 FEES

Destination Entry Mailing Fees
5.1

Destination entry mailing fees, per 12-month period:

a. Parcel Select: $150.00.

b. Bound Printed Matter: $150.00.

Pickup Fees
5.2

Parcel Post only, per occurrence: $12.50.

May be combined with Express Mail and Priority Mail pickups (see D010).

Presort Mailing Fees
5.3

Presort mailing fees, per 12-month period:

a. Presorted Media Mail: $150.00.

b. Presorted Library Mail: $150.00.

R900 Services

1.0 ADDRESS CORRECTION SERVICE (F030)

For all classes of mail:

a. Manual notice, each: $0.70.

b. Electronic notice, each: $0.20.

2.0 ADDRESS SEQUENCING SERVICE (A920)

Basic Service 2.1

Each card or address removed because of an incorrect or undeliverable address: $0.30.

Blanks for Missing Addresses 2.2

Each card or address removed because of an incorrect or undeliverable address: $0.30.

Insertion of blank cards for missing or new addresses: No charge.

Missing or New Addresses Added 2.3

Insertion of addressed cards for missing or new addresses: $0.30.

3.0 BULK PARCEL RETURN SERVICE (BPRS) (S924)

Permit Fee 3.1

Annual permit fee: $150.00.

Accounting Fee 3.2

Annual accounting fee: $475.00.

Per Piece Charge 3.3

For each piece returned, regardless of weight: $1.80.

4.0 BUSINESS REPLY MAIL (BRM) (S922)

Basic BRM 4.1

Annual permit fee: $150.00.

Per piece charge (in addition to the applicable First-Class Mail or Priority Mail postage (R100)): $0.60.

High-Volume BRM 4.2

Annual permit fee: $150.00.

Annual accounting fee (for advanced deposit account): $475.00.

Per piece charge (in addition to the applicable First-Class Mail or Priority Mail postage (R100)): $0.10.

Basic QBRM 4.3

Annual permit fee: $150.00.

Annual accounting fee (for advanced deposit account): $475.00.

Per piece charge (in addition to the automation First-Class Mail QBRM postage (R100.3.0)): $0.06.

High-Volume QBRM
4.4

Annual permit fee: $150.00.

Annual accounting fee (for advanced deposit account): $475.00.

Quarterly fee: $1,800.00.

Per piece charge (in addition to the automation First-Class Mail QBRM postage (R100.3.0)): $0.008.

Bulk Weight Averaged Nonletter-Size BRM
4.5

Annual permit fee: $150.00.

Annual accounting fee (for advanced deposit account): $475.00.

Monthly maintenance fee: $750.00.

Per piece charge (in addition to the applicable First-Class Mail or Priority Mail postage (R100)): $0.01.

5.0 CALLER SERVICE (D920)

Fees are charged as follows:

a. For each separation provided, per semiannual period (all post offices): $412.00.

b. For each reserved call number, per calendar year (all post offices): $32.00.

6.0 CERTIFICATE OF MAILING (S914)

Individual
6.1

Fee, in addition to postage:

a. For each piece (Form 3817): $0.90.

b. For each piece listed (Form 3877): $0.30 (minimum charge $0.90).

c. For duplicate copy of Form 3817 or Form 3877, per page: $0.90.

Bulk
6.2

For each Form 3606:

Service	Fee
For first 1,000 pieces (or fraction thereof)	$4.50
Each additional 1,000 pieces (or fraction thereof)	0.50
Duplicate copy of Form 3606	0.90

7.0 CERTIFIED MAIL (S912)

Fee, in addition to postage and other fees, per piece: $2.30.

8.0 COLLECT ON DELIVERY (COD) (S921)

Fee, in addition to postage and other fees, per piece:

Amount to be collected or insurance coverage desired, whichever is higher[1]				Fee
	$0.01	to	50.00	$4.50
	50.01	to	100.00	5.50
	100.01	to	200.00	6.50
	200.01	to	300.00	7.50
	300.01	to	400.00	8.50
	400.01	to	500.00	9.50
	500.01	to	600.00	10.50
	600.01	to	700.00	11.50
	700.01	to	800.00	12.50
	800.01	to	900.00	13.50
	900.01	to	1,000.00	14.50
Notice of nondelivery				3.00
Alteration of COD charges or designation of new addressee				3.00
Registered COD[2]				4.00

1. For Express Mail COD shipments of $100 or less, the COD fee charged is based on the amount to be collected.
2. Fee for registered COD, regardless of amount to be collected or insurance value.

9.0 DELIVERY CONFIRMATION (S918)

Fee, in addition to postage and other fees, per piece:

Type	Fee
First-Class Mail[1]	
Electronic	$0.13
Retail	0.55
Priority Mail	
Electronic	0.00
Retail	0.45
Standard Mail[2]	
Electronic	0.13
Parcel Select[1]	
Electronic	0.00
Other Package Services[1]	
Electronic	0.13
Retail	0.55

1. Available only for parcels.
2. Available only for pieces subject to the residual shape surcharge.

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10.0 DELIVERY RECORD

Fax or mail: $3.25.

Electronic: $1.30.

11.0 EXPRESS MAIL INSURANCE (S500)

Fee, in addition to postage and other fees:

a. For amount of merchandise insurance liability:

Insurance Coverage Desired	Fee
$ 0.01 to $ 100.00	$0.00
$ 100.01 to $ 5,000.00	$1.00 per $100 or fraction thereof over $100 in desired coverage
Express Mail merchandise maximum coverage: $5,000.00.	

b. Document reconstruction maximum liability: $100.00.

12.0 INSURANCE (S913)

Fee, in addition to postage and other fees, for merchandise insurance liability, per piece:

Insurance Coverage Desired	Fee	Bulk Insurance Fee
$ 0.01 to $ 50.00[1]	$1.30	$0.70
50.01 to 100.00[2]	2.20	1.40
100.01 to 200.00	3.20	2.40
200.01 to 300.00	4.20	3.40
300.01 to 400.00	5.20	4.40
400.01 to 500.00	6.20	5.40
500.01 to 600.00	7.20	6.40
600.01 to 700.00	8.20	7.40
700.01 to 800.00	9.20	8.40
800.01 to 900.00	10.20	9.40
900.01 to 1,000.00	11.20	10.40
1,000.01 to 5,000.00	11.20 plus $1.00 per $100 or fraction thereof over $1,000 in desired coverage	10.40 plus $1.00 per $100 or fraction thereof over $1,000 in desired coverage
Insured mail maximum coverage: $5,000.00.		

1. For merchandise insured for $50 or less, Form 3813 is used with an elliptical insured marking (no insured number is assigned).
2. For merchandise insured for more than $50, Form 3813-P is used with an insured number.

13.0 MAILING LIST SERVICE (A910)

List Correction 13.1

Minimum charge per list (30 items): $9.00.

For each address on list: $0.30.

5-Digit ZIP Code Sortation 13.2

For sortation of mailing lists on cards into groups labeled by 5-digit ZIP Code, per 1,000 addresses or fraction: $100.00.

Election Boards 13.3

For address changes provided to election boards and voter registration commissions, per Form 3575: $0.27.

14.0 MERCHANDISE RETURN SERVICE (S923)

Permit Fee 14.1 Annual permit fee: $150.00.

Accounting Fee 14.2 Annual accounting fee (for advance deposit account): $475.00.

15.0 METER SERVICE (P030)

Fees for on-site meter service:

a. Meter service (per employee, per visit): $35.00.

b. Meters reset/examined (per meter): $5.00.

c. Checking meters in/out of service (per meter; fee does not apply to secured postage meters that use a USPS-approved automated process for checking in and out): $4.00.

16.0 MONEY ORDERS (S020)

Fees, each:

a. Domestic money order:

Amount Desired	Fee
$ 0.01 to $ 500.00	$0.90
500.01 to 1,000.00	$1.25

b. APO/FPO money order ($0.01 to $1,000.00): $0.25.

c. Inquiry (includes the issuance of a copy of a paid money order): $3.00.

17.0 PARCEL AIRLIFT (PAL) (S930)

Fee, in addition to postage and other fees, per piece:

Weight Not More Than (pounds)	Fee
2	$0.45
3	0.85
4	1.25
30	1.70

18.0 PERMIT IMPRINT (P040)

Application fee: $150.00.

19.0 PICKUP SERVICE (D010)

Available for Express Mail, Priority Mail, and Parcel Post, per pickup: $12.50.

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20.0 POST OFFICE BOX SERVICE (D910)

For service provided:

a. Deposit per key issued: $1.00.

b. Additional keys, key duplication, or replacement, each: $4.40.

c. Post office box lock replacement, each: $11.00.

d. Box fee per semiannual (6-month) period:

Fee Group	Box Size and Fee				
	1	2	3	4	5
1	$35.00	$50.00	$100.00	$205.00	$330.00
2	29.00	45.00	80.00	170.00	315.00
3	24.00	38.00	68.00	118.00	209.00
4	19.00	34.00	63.00	110.00	175.00
5	13.00	22.00	34.00	65.00	125.00
6	12.00	18.00	33.00	60.00	97.00
7	9.00	13.00	23.00	40.00	70.00
E[1]	0.00	0.00	0.00	0.00	0.00

1. A customer ineligible for carrier delivery service may obtain one post office box at the Group E fee, subject to administrative decisions regarding customer's proximity to post office (see D910).

21.0 REGISTERED MAIL (S911)

Fees and charges are in addition to postage:

Declared Value			Fee	Handling Charge
$0.00			$7.50	—
$0.01	to	$100.00	$8.00	—
100.01	to	500.00	8.85	—
500.01	to	1,000.00	9.70	—
1,000.01	to	2,000.00	10.55	—
2,000.01	to	3,000.00	11.40	—
3,000.01	to	4,000.00	12.25	—
4,000.01	to	5,000.00	13.10	—
5,000.01	to	6,000.00	13.95	—
6,000.01	to	7,000.00	14.80	—
7,000.01	to	8,000.00	15.65	—
8,000.01	to	9,000.00	16.50	—
9,000.01	to	10,000.00	17.35	—
10,000.01	to	25,000.00	$17.35 plus 85 cents per $1,000 or fraction over $10,000	—
$25,000.01[1] to $1,000,000.00			$30.10	plus 85 cents for each $1,000 (or fraction thereof) over $25,000
1,000,000.01 to 15,000,000.00			858.85	plus 85 cents for each $1,000 (or fraction thereof) over $1,000,000
15,000,000.01 +			12,758.85	plus amount determined by the Postal Service based on weight, space, and value

Maximum coverage: $25,000.00.

1. Articles with a declared value of more than $25,000 can be registered, but compensation for loss or damage is limited to $25,000.

22.0 RESTRICTED DELIVERY (S916)

Fee, in addition to postage and other fees, per piece: $3.50.

23.0 RETURN RECEIPT (S915)

Fee, in addition to postage and other fees, per piece:

Type	Fee
Requested at time of mailing	
Original signature	$1.75
Copy of signature (electronic)	1.30
Requested after mailing	3.25

24.0 RETURN RECEIPT FOR MERCHANDISE (S917)

Fee, in addition to postage and other fees, per piece:

Type	Fee
Requested at time of mailing	$3.00

25.0 SHIPPER PAID FORWARDING (F010)

Annual accounting fee for (optional) advance deposit account: $475.00.

26.0 SIGNATURE CONFIRMATION (S919)

Available for First-Class Mail parcels, Priority Mail, and Package Services parcels.
Fee, in addition to postage and other fees, per piece:

Type	Fee
Electronic	$1.30
Retail	1.80

27.0 SPECIAL HANDLING (S930)

Fee, in addition to postage and other fees, per piece:

Weight (pounds)	Fee
Up to 10	$5.95
Over 10	8.25

An appropriate amendment to 39 CFR to reflect these changes will be published if the proposal is adopted.

Neva Watson

Neva Watson,

Attorney, Legislative.

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[FR Doc. 02–2177 Filed 1–29–02; 8:45 am]
BILLING CODE 7710–12–C

Federal Register

Wednesday,
January 30, 2002

Part V

Department of Education

Privacy Act of 1974; System of Records, Notice

DEPARTMENT OF EDUCATION

Privacy Act of 1974; System of Records

AGENCY: White House Initiative on Educational Excellence for Hispanic Americans, Office of Intergovernmental and Interagency Affairs, Department of Education.

ACTION: Notice of a new system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended, the Department of Education (the Department) publishes this notice of a new system of records entitled ''Partners in Education (18–06–05).'' The system will contain information on individuals who have indicated an interest in receiving information about the White House Initiative, its publications and programs, and ways in which they can become partners. The information maintained in the system includes the individual's name, affiliation, mailing address, telephone number, fax, e-mail address, and system-generated identifiers. The information that will form the new system of records will be collected through various sources, including telephone, written, and e-mail inquiries, as well as written requests to be included in the Partners in Education system of records database submitted at meetings, conferences, and events at which the White House Initiative is present or participating. The information will be entered into a database on a computer in order to generate mailing labels, for the purpose of mailing out publications and program information, and lists to Federal, State, or local agencies to fulfill that Federal, State, or local agency's responsibilities under Executive Order 13230, 66 FR 52841. The Department seeks comment on this new system of records described in this notice, in accordance with the requirements of the Privacy Act.

DATES: We must receive your comments on the proposed routine uses for this system of records included in this notice on or before March 1, 2002.

The Department filed a report describing the new system of records covered by this notice with the Chair of the Committee on Governmental Affairs of the Senate, the Chair of the Committee on Government Reform and Oversight of the House, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on January 25, 2002. This new system of records will become effective at the later date of— (1) the expiration of the 40-day period for OMB review on March 6, 2002, or (2) March 1, 2002, unless the system of records needs to be changed as a result of public comment or OMB review.

ADDRESSES: Address all comments on the proposed routine uses of this system to Leslie Sanchez, Executive Director, White House Initiative on Educational Excellence for Hispanic Americans, Office of Intergovernmental and Interagency Affairs, U.S. Department of Education, 400 Maryland Avenue, SW., Federal Building 6, Room 5E110, Washington, DC 20202. If you prefer to send comments through the Internet, use the following address: *comments@ed.gov.*

You must include the term ''Partners in Education'' in the subject line of your electronic comment.

During and after the comment period, you may inspect all public comments about this notice in room 5E110, 400 Maryland Avenue, SW., Federal Building 6, Washington, DC, between the hours of 8:00 a.m. and 4:30 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of aid, you may call (202) 205–8113 or (202) 260–9895. If you use a telecommunications device the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

FOR FURTHER INFORMATION CONTACT: Leslie Sanchez. Telephone: (202) 401–1411. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT.**

SUPPLEMENTARY INFORMATION:

Introduction

The Privacy Act of 1974 (5 U.S.C. 552a(e)(4)) requires the Department to publish in the **Federal Register** this notice of a new system of records managed by the Department. The Department's regulations implementing the Privacy Act of 1974 are contained in the Code of Federal Regulations (CFR) in 34 CFR part 5b.

The Privacy Act of 1974 (Privacy Act), 5 U.S.C. 552a, applies to a record about an individual that is maintained in a system of records from which information is retrieved by a unique identifier associated with each individual, such as a name or social security number. The information about each individual is called a ''record,'' and the system, whether manual or computer-driven, is called a ''system of records.'' The Privacy Act requires each agency to publish notices of systems of records in the **Federal Register** and to prepare reports to the Office of Management and Budget (OMB) whenever the agency publishes a new or ''altered'' system of records.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/legislation/FedRegister/*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.access.gpo.gov/nara/index/html*

Dated: January 25, 2002.

Laurie Rich,

Assistant Secretary for Intergovernmental and Interagency, Affairs.

For the reasons discussed in the preamble, the Executive Director of the White House Initiative on Educational Excellence for Hispanic Americans of the U.S. Department of Education publishes a notice of a new system of records to read as follows:

18–06–05

SYSTEM NAME:

Partners in Education.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATIONS:

The White House Initiative Partners in Education is located at the White House Initiative on Educational Excellence for Hispanic Americans, Office of Intergovernmental and

Interagency Affairs, U.S. Department of Education, 400 Maryland Avenue, SW., Federal Building 6, Room 5E110, Washington, DC 20202.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The system will contain information on individuals who have indicated an interest in receiving information about the White House Initiative, its publications and programs, and ways in which they can become partners.

This system contains records containing an individual's name, title, affiliation, mailing address, telephone number, fax, e-mail, and representational category (e.g. parents, educators, schools, school districts, businesses, etc.). The system generated identifier or ''key'' will consist of a combination of numbers and letters and is produced by the system of records automatically.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 13230, 66 FR 52841.

PURPOSE(S):

The information contained in the records maintained in this system is used for the purposes of conducting individual, mass, and targeted mailings of White House Initiative program information, publications, and reports.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Department of Education (Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Act, under a computer matching agreement.

(1) *Other Agencies and Institutions.* The Department may disclose records from the representational categories to Federal, State, or local agencies if the requested use is intended to fulfill that Federal, State, or local agency's responsibilities under Executive Order 13230, 66 FR 52841.

(2) *Litigation and Alternative Dispute Resolution (ADR) Disclosures.*

(a) *Introduction.* In the event that one of the following parties is involved in litigation or ADR, or has an interest in litigation or ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c), and (d) of this routine use under the conditions specified in those paragraphs:

(i) The Department of Education, or any component of the Department; or

(ii) Any Department employee in his or her official capacity; or

(iii) Any Department employee in his or her individual capacity if the Department of Justice (DOJ) has agreed to provide or arrange for representation for the employee;

(iv) Any Department employee in his or her individual capacity if the agency has agreed to represent the employee; or

(v) The United States if the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Disclosure to the Department of Justice.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the DOJ.

(c) *Administrative or Judicial Disclosures.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, to an individual, or to an entity designated by the Department or otherwise empowered to mediate or resolve disputes is relevant and necessary to the litigation, the Department may disclose those records as a routine use to the adjudicative or judicial body, individual, or entity.

(d) *Parties, Counsel, Representatives, and Witnesses.* If the Department determines that disclosure of certain records to a party, counsel, representative, or witness in an administrative or judicial proceeding is relevant and necessary to the litigation, the Department may disclose those records as a routine use to the party, counsel, representative, or witness.

(3) *Contract Disclosure.* If the Department contracts with an entity for the purposes of performing any function that requires disclosure of records in this system to employees of the contractor, the Department may disclose the records to those employees. Before entering into such a contract, the Department shall require the contractor to maintain Privacy Act safeguards as required under 5 U.S.C. 552a(m) with respect to the records in the system.

(4) *Research Disclosure.* The Department may disclose records to a researcher if an appropriate official of the Department determines that the individual or organization to which the disclosure would be made is qualified to carry out specific research that is compatible with the purposes of this system of records. The official may disclose records from this system of records to that researcher solely for the purpose of carrying out that research that is compatible with the purposes of this system of records. The researcher shall be required to maintain Privacy Act safeguards with respect to the disclosed records.

(5) *Congressional Member Disclosure.* The Department may disclose records to a member of Congress from the record of an individual in response to an inquiry from the member made at the written request of that individual. The member's right to the information is no greater than the right of the individual who requested it.

(6) *Freedom of Information Act (FOIA) Advice Disclosure.* In the event that the Department deems it desirable or necessary, in determining whether particular records are required to be disclosed under the Freedom of Information Act, disclosure may be made to the Department of Justice or the Office of Management and Budget for the purpose of obtaining their advice.

(7) *Disclosure to the Department of Justice.* The Department may disclose records to the DOJ to the extent necessary for obtaining DOJ advice on any matter relevant to an audit, inspection, or other inquiry related to the programs covered by this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are maintained on a computer and backed up on magnetic tape or other electronic media.

RETRIEVABILITY:

Records will be retrieved by name, group, organization, and/or the requestor's regional location for the purpose of conducting targeted mailings.

SAFEGUARDS:

The system of records will be secured by permitting only designated individuals within the White House Initiative program staff access to the database. Furthermore, the designated individuals' access to personal computers, the network, and the system of records will require personal identifiers and unique passwords, which will be periodically changed to prevent unauthorized access. The building in which the system of records is housed is monitored by security personnel during business and non-business hours.

RETENTION AND DISPOSAL:

The Department will retain and dispose of these records in accordance

with National Archives and Records Administration General Records Schedule 20, Item 14 for electronic mail requests and General Records Schedule 13, Item 14 for all other requests for information.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director, White House Initiative on Educational Excellence for Hispanic Americans, Office of Intergovernmental and Interagency Affairs, U.S. Department of Education, 400 Maryland Avenue, SW., Room 5E110, Washington, DC 20202.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists regarding you in this system of records, provide the system manager with your name, address, phone number, and affiliation. Requests must meet the requirements of the regulations in 34 CFR 5b.5.

RECORD ACCESS PROCEDURES:

If you wish to gain access to a record in this system, contact the system manager and provide information as described in the notification procedure. Requests by an individual for access to a record must meet the requirements of the regulations in 34 CFR 5b.5.

CONTESTING RECORD PROCEDURES:

If you wish to contest a record in the system of records, contact the system manager with the information described in the notification procedure, identify the specific items you are contesting, and provide a written justification for each item. Requests to amend a record must meet the requirements of the regulations in 34 CFR 5b.7.

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from individuals who request, in writing, verbally, or electronically, to be listed on the system of records in order to receive information. The individual's affiliation will comprise the representational category. The system generated identifier or ''key'' will consist of a combination numbers and letters and is produced by the system of records automatically.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 02–2227 Filed 1–29–02; 8:45 am]

BILLING CODE 4000–01–U

Federal Register

Wednesday,
January 30, 2002

Part V

Department of Education

Privacy Act of 1974; System of Records, Notice

DEPARTMENT OF EDUCATION

Privacy Act of 1974; System of Records

AGENCY: White House Initiative on Educational Excellence for Hispanic Americans, Office of Intergovernmental and Interagency Affairs, Department of Education.

ACTION: Notice of a new system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended, the Department of Education (the Department) publishes this notice of a new system of records entitled ''Partners in Education (18–06–05).'' The system will contain information on individuals who have indicated an interest in receiving information about the White House Initiative, its publications and programs, and ways in which they can become partners. The information maintained in the system includes the individual's name, affiliation, mailing address, telephone number, fax, e-mail address, and system-generated identifiers. The information that will form the new system of records will be collected through various sources, including telephone, written, and e-mail inquiries, as well as written requests to be included in the Partners in Education system of records database submitted at meetings, conferences, and events at which the White House Initiative is present or participating. The information will be entered into a database on a computer in order to generate mailing labels, for the purpose of mailing out publications and program information, and lists to Federal, State, or local agencies to fulfill that Federal, State, or local agency's responsibilities under Executive Order 13230, 66 FR 52841. The Department seeks comment on this new system of records described in this notice, in accordance with the requirements of the Privacy Act.

DATES: We must receive your comments on the proposed routine uses for this system of records included in this notice on or before March 1, 2002.

The Department filed a report describing the new system of records covered by this notice with the Chair of the Committee on Governmental Affairs of the Senate, the Chair of the Committee on Government Reform and Oversight of the House, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on January 25, 2002. This new system of records will become effective at the later date of— (1) the expiration of the 40-day period for OMB review on March 6, 2002, or (2) March 1, 2002, unless the system of records needs to be changed as a result of public comment or OMB review.

ADDRESSES: Address all comments on the proposed routine uses of this system to Leslie Sanchez, Executive Director, White House Initiative on Educational Excellence for Hispanic Americans, Office of Intergovernmental and Interagency Affairs, U.S. Department of Education, 400 Maryland Avenue, SW., Federal Building 6, Room 5E110, Washington, DC 20202. If you prefer to send comments through the Internet, use the following address: *comments@ed.gov.*

You must include the term ''Partners in Education'' in the subject line of your electronic comment.

During and after the comment period, you may inspect all public comments about this notice in room 5E110, 400 Maryland Avenue, SW., Federal Building 6, Washington, DC, between the hours of 8:00 a.m. and 4:30 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of aid, you may call (202) 205–8113 or (202) 260–9895. If you use a telecommunications device the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

FOR FURTHER INFORMATION CONTACT: Leslie Sanchez. Telephone: (202) 401–1411. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT.**

SUPPLEMENTARY INFORMATION:

Introduction

The Privacy Act of 1974 (5 U.S.C. 552a(e)(4)) requires the Department to publish in the **Federal Register** this notice of a new system of records managed by the Department. The Department's regulations implementing the Privacy Act of 1974 are contained in the Code of Federal Regulations (CFR) in 34 CFR part 5b.

The Privacy Act of 1974 (Privacy Act), 5 U.S.C. 552a, applies to a record about an individual that is maintained in a system of records from which information is retrieved by a unique identifier associated with each individual, such as a name or social security number. The information about each individual is called a ''record,'' and the system, whether manual or computer-driven, is called a ''system of records.'' The Privacy Act requires each agency to publish notices of systems of records in the **Federal Register** and to prepare reports to the Office of Management and Budget (OMB) whenever the agency publishes a new or ''altered'' system of records.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/legislation/FedRegister/*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.access.gpo.gov/nara/index/html*

Dated: January 25, 2002.

Laurie Rich,

Assistant Secretary for Intergovernmental and Interagency, Affairs.

For the reasons discussed in the preamble, the Executive Director of the White House Initiative on Educational Excellence for Hispanic Americans of the U.S. Department of Education publishes a notice of a new system of records to read as follows:

18–06–05

SYSTEM NAME:

Partners in Education.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATIONS:

The White House Initiative Partners in Education is located at the White House Initiative on Educational Excellence for Hispanic Americans, Office of Intergovernmental and

Interagency Affairs, U.S. Department of Education, 400 Maryland Avenue, SW., Federal Building 6, Room 5E110, Washington, DC 20202.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The system will contain information on individuals who have indicated an interest in receiving information about the White House Initiative, its publications and programs, and ways in which they can become partners.

This system contains records containing an individual's name, title, affiliation, mailing address, telephone number, fax, e-mail, and representational category (e.g. parents, educators, schools, school districts, businesses, etc.). The system generated identifier or ''key'' will consist of a combination of numbers and letters and is produced by the system of records automatically.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 13230, 66 FR 52841.

PURPOSE(S):

The information contained in the records maintained in this system is used for the purposes of conducting individual, mass, and targeted mailings of White House Initiative program information, publications, and reports.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Department of Education (Department) may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Act, under a computer matching agreement.

(1) *Other Agencies and Institutions.* The Department may disclose records from the representational categories to Federal, State, or local agencies if the requested use is intended to fulfill that Federal, State, or local agency's responsibilities under Executive Order 13230, 66 FR 52841.

(2) *Litigation and Alternative Dispute Resolution (ADR) Disclosures.*

(a) *Introduction.* In the event that one of the following parties is involved in litigation or ADR, or has an interest in litigation or ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c), and (d) of this routine use under the conditions specified in those paragraphs:

(i) The Department of Education, or any component of the Department; or

(ii) Any Department employee in his or her official capacity; or

(iii) Any Department employee in his or her individual capacity if the Department of Justice (DOJ) has agreed to provide or arrange for representation for the employee;

(iv) Any Department employee in his or her individual capacity if the agency has agreed to represent the employee; or

(v) The United States if the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Disclosure to the Department of Justice.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the DOJ.

(c) *Administrative or Judicial Disclosures.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, to an individual, or to an entity designated by the Department or otherwise empowered to mediate or resolve disputes is relevant and necessary to the litigation, the Department may disclose those records as a routine use to the adjudicative or judicial body, individual, or entity.

(d) *Parties, Counsel, Representatives, and Witnesses.* If the Department determines that disclosure of certain records to a party, counsel, representative, or witness in an administrative or judicial proceeding is relevant and necessary to the litigation, the Department may disclose those records as a routine use to the party, counsel, representative, or witness.

(3) *Contract Disclosure.* If the Department contracts with an entity for the purposes of performing any function that requires disclosure of records in this system to employees of the contractor, the Department may disclose the records to those employees. Before entering into such a contract, the Department shall require the contractor to maintain Privacy Act safeguards as required under 5 U.S.C. 552a(m) with respect to the records in the system.

(4) *Research Disclosure.* The Department may disclose records to a researcher if an appropriate official of the Department determines that the individual or organization to which the disclosure would be made is qualified to carry out specific research that is compatible with the purposes of this system of records. The official may disclose records from this system of records to that researcher solely for the purpose of carrying out that research that is compatible with the purposes of this system of records. The researcher shall be required to maintain Privacy Act safeguards with respect to the disclosed records.

(5) *Congressional Member Disclosure.* The Department may disclose records to a member of Congress from the record of an individual in response to an inquiry from the member made at the written request of that individual. The member's right to the information is no greater than the right of the individual who requested it.

(6) *Freedom of Information Act (FOIA) Advice Disclosure.* In the event that the Department deems it desirable or necessary, in determining whether particular records are required to be disclosed under the Freedom of Information Act, disclosure may be made to the Department of Justice or the Office of Management and Budget for the purpose of obtaining their advice.

(7) *Disclosure to the Department of Justice.* The Department may disclose records to the DOJ to the extent necessary for obtaining DOJ advice on any matter relevant to an audit, inspection, or other inquiry related to the programs covered by this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are maintained on a computer and backed up on magnetic tape or other electronic media.

RETRIEVABILITY:

Records will be retrieved by name, group, organization, and/or the requestor's regional location for the purpose of conducting targeted mailings.

SAFEGUARDS:

The system of records will be secured by permitting only designated individuals within the White House Initiative program staff access to the database. Furthermore, the designated individuals' access to personal computers, the network, and the system of records will require personal identifiers and unique passwords, which will be periodically changed to prevent unauthorized access. The building in which the system of records is housed is monitored by security personnel during business and non-business hours.

RETENTION AND DISPOSAL:

The Department will retain and dispose of these records in accordance

with National Archives and Records Administration General Records Schedule 20, Item 14 for electronic mail requests and General Records Schedule 13, Item 14 for all other requests for information.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director, White House Initiative on Educational Excellence for Hispanic Americans, Office of Intergovernmental and Interagency Affairs, U.S. Department of Education, 400 Maryland Avenue, SW., Room 5E110, Washington, DC 20202.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists regarding you in this system of records, provide the system manager with your name, address, phone number, and affiliation. Requests must meet the requirements of the regulations in 34 CFR 5b.5.

RECORD ACCESS PROCEDURES:

If you wish to gain access to a record in this system, contact the system manager and provide information as described in the notification procedure. Requests by an individual for access to a record must meet the requirements of the regulations in 34 CFR 5b.5.

CONTESTING RECORD PROCEDURES:

If you wish to contest a record in the system of records, contact the system manager with the information described in the notification procedure, identify the specific items you are contesting, and provide a written justification for each item. Requests to amend a record must meet the requirements of the regulations in 34 CFR 5b.7.

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from individuals who request, in writing, verbally, or electronically, to be listed on the system of records in order to receive information. The individual's affiliation will comprise the representational category. The system generated identifier or ''key'' will consist of a combination numbers and letters and is produced by the system of records automatically.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 02–2227 Filed 1–29–02; 8:45 am]

BILLING CODE 4000–01–U

Federal Register

Wednesday,
January 30, 2002

Part VI

Department of Justice

Office of Justice Programs

The Serious, Violent Offender Reentry Initiative; Notice

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP(OJP)–1346]

The Serious, Violent Offender Reentry Initiative

AGENCY: Office of Justice Programs (OJP), Justice (DOJ) in partnership with Department of Health and Human Services (HHS), Department of Labor (DOL), Department of Education (ED), Department of Housing and Urban Development (HUD), and National Institute of Corrections (NIC), an agency of DOJ.

ACTION: Notice of funding availability.

SUMMARY: The Office of Justice Programs (OJP), U.S. Department of Justice (DOJ) and its Federal partners, HHS, DOL, ED, HUD, and NIC, are requesting applications for the Serious, Violent Offender Reentry Initiative. This collaborative and comprehensive grant program is designed to address the issues related to violent offenders (adults and juveniles) who are to be released and who have been released from correctional facilities and are returning to communities nationwide. The program aims to reduce recidivism by these returning offenders and thereby, enhance community safety.

DATES: Applications must be received by Wednesday, May 15, 2002, by 5:30 p.m. Eastern Standard Time.

ADDRESSES: All applications must be mailed or delivered to the Office of the Assistant Attorney General, Office of Justice Programs, 810 7th Street, NW., 6th Floor, Washington, DC 20531. Applicants are encouraged to use Federal Express, UPS, or similar service to ensure delivery by the due date as mail at OJP is still being delayed due to recent events. Faxed or e-mailed applications will *not* be accepted.

FOR FURTHER INFORMATION CONTACT: DOJ Response Center at 1–800–421–6770 for copies of the *Serious, Violent Offender Reentry Initiative Application Package* and for general information about the initiative. The Application Package can also be downloaded from OJP's Reentry Web site at *http://www.ojp.usdoj.gov/reentry/funding.htm.*

SUPPLEMENTARY INFORMATION:

Why Focus On Returning Violent Offenders?

- According to OJP's Bureau of Justice Statistics (BJS), the rate of incarceration of offenders in State and Federal prisons and local jails rose sharply throughout the country during the 1990s, climbing from 458 inmates for every 100,000 U.S. residents in 1990 to 699 inmates per 100,000 residents by year-end 2000. In absolute numbers these rates represent an increase from 1.1 million men and women held in 1990 to over 1.9 million on December 31, 2000. (BJS, Allen J. Beck, Ph.D., and Paige M. Harrison, August 2001, *Prisoners in 2000*).
- Of the nearly 1.2 million prisoners held in State facilities, 48 percent were convicted of violent crimes. (BJS, Allen J. Beck, Ph.D., and Paige M. Harrison, August 2001, *Prisoners in 2000*).
- Growing numbers of these prisoners are being released into the community each year. In fact, there were more than 652,000 offenders under State parole supervision across the country at year-end 2000. Only 42 percent of State parole discharges in 2000 successfully completed their term of supervision, a percentage which has remained relatively unchanged since 1990. (BJS, October 2001, Timothy Hughes, Doris James Wilson, Allen J. Beck, Ph.D., *Trends in State Parole, 1990–2000*).
- Most offenders currently lack any concrete, specific plans for their return.
- Correctional facilities are not prepared in many cases to provide programs and resources for successful reintegration (*i.e.,* job development (interviewing, completing applications, vocational training), education, financial training, comprehensive mental health and substance abuse treatment, family counseling, and transitional and permanent housing.
- Due to overburdened and understaffed community corrections agencies, most offenders are not monitored on an intensive, day-to-day basis as they return to the community.
- Few jurisdictions have an established authority designed to continually assess the offenders' behavior and to mandate the coordination of services.

How Will the Reentry Initiative Address These Problems?

The *Serious, Violent Offender Reentry Initiative* seeks to provide and coordinate the resources necessary to transition newly-released offenders into the community and to help them become productive, law-abiding citizens. Preparing offenders for reentry must begin in the institutions. From there, a successful reintegration strategy requires providing a continuum of services and supervision as offenders transition back into the community, and providing a means of sustaining offenders in the community after they successfully complete their term of post-incarceration and criminal justice involvement. Accordingly, the *Serious, Violent Offender Reentry Initiative* is designed to address all three of these stages.

- *Phase I: ''Making a Plan''* focuses on institutionally-based programs that provide education, treatment, and life skills training for offenders while they are serving time in institutions and other correctional facilities;
- *Phase II: ''Coming Home''* focuses on the community-based transition programs, services and supervision provided as the offenders reenter the community;
- *Phase III:* ''Staying Home'' focuses on community-based, long-term support by establishing networks of agencies and individuals in the neighborhoods who can assist offenders in remaining law-abiding citizens.

Who Is the Target Population?

The Reentry Initiative seeks to focus reentry efforts on serious, violent offenders. Serious, violent offenders are defined as offenders convicted for a Part I violent crime or adjudicated delinquent for an act which if committed by an adult would be a Part I violent crime. A ''Part I violent crime'' means murder and nonnegligent manslaughter, forcible rape, robbery, and aggravated assault as reported to the Federal Bureau of Investigation for purposes of the Uniform Crime Reports.

Within the target population of returning serious, violent offenders, applicant jurisdictions should select *one or more* of the following target age group(s) on which to focus their reentry programs:

- Youth (ages 14–17)
- Young Adult (ages 18–24)
- Adult (ages 25+)

Who Are Eligible Applicants?

The Office of Justice Programs, in conjunction with its Federal partners, will provide funding for states, local jurisdictions, or tribal units of government to design, implement, enhance and evaluate reentry strategic plans for returning offenders in the defined age categories.

To be eligible for funding, the state, local or tribal government applicant must have established and described in its application a partnership that includes all the relevant stakeholders including ranking officials from :

- Juvenile and/or adult justice agencies
- Courts
- Law enforcement
- Job training/workforce investment boards
- Community-based organizations
- Education agencies and institutions
- Substance abuse, mental health agencies, and

• A local reentry program evaluator

Applicants are also encouraged to collaborate with non-profit organizations, small, neighborhood-based organizations, and private foundations and faith-based groups.

What Are the Key Elements of a Reentry Strategy?

Although the structure of the applicants' reentry strategies may vary depending on available resources and relevant laws and policies, successful applications will outline strategies that have the following elements or are in the process of developing them:

• Establishment of a clear and ongoing authority to hold the offender accountable so long as there is legal jurisdiction. Sanctions should be appropriate and graduated, including return to confinement status.

• Implementation of a detailed assessment process'forensic, educational, vocational, mental health, and substance abuse.

• Development of a reintegration plan that clearly addresses all issues identified in the assessment phase and becomes the guide by which the offender must manage reentry into the community.

• Utilization of existing community resources to implement the plan which affords continuity and availability of service delivery and ensures familiarity by the offender with the service system and also increases potential for sustainability of the program and the offender in the community.

• Application of graduated levels of supervision and sanctions to offenders such as highly structured housing, electronic monitoring, team supervision, and consistent and equitable responses to lack of compliance or reoffending.

• Involvement of local law enforcement, probation, parole, and the community in tracking the activities and behaviors of offenders.

• Utilization of community-based organizations, which include faith-based organizations, to mentor and provide services to the offenders.

Funding Strategy

Each applicant will be required to identify Federal, State, and local resources that will be leveraged, redeployed and accessed to support the various components of their reentry programs-in institutions and/or in the community. Grant funds that will be made available through this Initiative will be used to fund the components of an applicant's program for which they have been unable to identify and/or obtain the necessary resources.

Applicants can obtain online information, at *http://www.ojp.usdoj.gov/reentry/funding.htm,* to help them identify existing funding resources available from the Federal partners that could be leveraged to support the development and implementation of state and local reentry programs.

Upcoming Teleconference and Workshops About Reentry Grant Applications

DOJ and its Federal partners plan to hold a national teleconference, as well as regional workshops, to provide information about applying for reentry grant funding. Information about these events will be posted on the OJP Reentry website once the dates have been finalized.

Note to Applicants for DOJ's Canceled Young Offender Initiative

Applicants who responded to the previous Young Offender Initiative solicitation must *reapply* to receive funding under this solicitation. Those applications must conform to the requirements as described in the Serious, Violent Offender Reentry Initiative.

Deborah J. Daniels,

Assistant Attorney General, Office of Justice Programs.

[FR Doc. 02–2241 Filed 1–29–02; 8:45 am]

BILLING CODE 4410–18–P

Federal Register

Wednesday,
January 30, 2002

Part VI

Department of Justice

Office of Justice Programs

The Serious, Violent Offender Reentry Initiative; Notice

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP(OJP)–1346]

The Serious, Violent Offender Reentry Initiative

AGENCY: Office of Justice Programs (OJP), Justice (DOJ) in partnership with Department of Health and Human Services (HHS), Department of Labor (DOL), Department of Education (ED), Department of Housing and Urban Development (HUD), and National Institute of Corrections (NIC), an agency of DOJ.

ACTION: Notice of funding availability.

SUMMARY: The Office of Justice Programs (OJP), U.S. Department of Justice (DOJ) and its Federal partners, HHS, DOL, ED, HUD, and NIC, are requesting applications for the Serious, Violent Offender Reentry Initiative. This collaborative and comprehensive grant program is designed to address the issues related to violent offenders (adults and juveniles) who are to be released and who have been released from correctional facilities and are returning to communities nationwide. The program aims to reduce recidivism by these returning offenders and thereby, enhance community safety.

DATES: Applications must be received by Wednesday, May 15, 2002, by 5:30 p.m. Eastern Standard Time.

ADDRESSES: All applications must be mailed or delivered to the Office of the Assistant Attorney General, Office of Justice Programs, 810 7th Street, NW., 6th Floor, Washington, DC 20531. Applicants are encouraged to use Federal Express, UPS, or similar service to ensure delivery by the due date as mail at OJP is still being delayed due to recent events. Faxed or e-mailed applications will *not* be accepted.

FOR FURTHER INFORMATION CONTACT: DOJ Response Center at 1–800–421–6770 for copies of the *Serious, Violent Offender Reentry Initiative Application Package* and for general information about the initiative. The Application Package can also be downloaded from OJP's Reentry Web site at *http://www.ojp.usdoj.gov/reentry/funding.htm.*

SUPPLEMENTARY INFORMATION:

Why Focus On Returning Violent Offenders?

- According to OJP's Bureau of Justice Statistics (BJS), the rate of incarceration of offenders in State and Federal prisons and local jails rose sharply throughout the country during the 1990s, climbing from 458 inmates for every 100,000 U.S. residents in 1990 to 699 inmates per 100,000 residents by year-end 2000. In absolute numbers these rates represent an increase from 1.1 million men and women held in 1990 to over 1.9 million on December 31, 2000. (BJS, Allen J. Beck, Ph.D., and Paige M. Harrison, August 2001, *Prisoners in 2000*).
- Of the nearly 1.2 million prisoners held in State facilities, 48 percent were convicted of violent crimes. (BJS, Allen J. Beck, Ph.D., and Paige M. Harrison, August 2001, *Prisoners in 2000*).
- Growing numbers of these prisoners are being released into the community each year. In fact, there were more than 652,000 offenders under State parole supervision across the country at year-end 2000. Only 42 percent of State parole discharges in 2000 successfully completed their term of supervision, a percentage which has remained relatively unchanged since 1990. (BJS, October 2001, Timothy Hughes, Doris James Wilson, Allen J. Beck, Ph.D., *Trends in State Parole, 1990–2000*).
- Most offenders currently lack any concrete, specific plans for their return.
- Correctional facilities are not prepared in many cases to provide programs and resources for successful reintegration (*i.e.,* job development (interviewing, completing applications, vocational training), education, financial training, comprehensive mental health and substance abuse treatment, family counseling, and transitional and permanent housing.
- Due to overburdened and understaffed community corrections agencies, most offenders are not monitored on an intensive, day-to-day basis as they return to the community.
- Few jurisdictions have an established authority designed to continually assess the offenders' behavior and to mandate the coordination of services.

How Will the Reentry Initiative Address These Problems?

The *Serious, Violent Offender Reentry Initiative* seeks to provide and coordinate the resources necessary to transition newly-released offenders into the community and to help them become productive, law-abiding citizens. Preparing offenders for reentry must begin in the institutions. From there, a successful reintegration strategy requires providing a continuum of services and supervision as offenders transition back into the community, and providing a means of sustaining offenders in the community after they successfully complete their term of post-incarceration and criminal justice involvement. Accordingly, the *Serious, Violent Offender Reentry Initiative* is designed to address all three of these stages.

- *Phase I: ''Making a Plan''* focuses on institutionally-based programs that provide education, treatment, and life skills training for offenders while they are serving time in institutions and other correctional facilities;
- *Phase II: ''Coming Home''* focuses on the community-based transition programs, services and supervision provided as the offenders reenter the community;
- *Phase III:* ''Staying Home'' focuses on community-based, long-term support by establishing networks of agencies and individuals in the neighborhoods who can assist offenders in remaining law-abiding citizens.

Who Is the Target Population?

The Reentry Initiative seeks to focus reentry efforts on serious, violent offenders. Serious, violent offenders are defined as offenders convicted for a Part I violent crime or adjudicated delinquent for an act which if committed by an adult would be a Part I violent crime. A ''Part I violent crime'' means murder and nonnegligent manslaughter, forcible rape, robbery, and aggravated assault as reported to the Federal Bureau of Investigation for purposes of the Uniform Crime Reports.

Within the target population of returning serious, violent offenders, applicant jurisdictions should select *one or more* of the following target age group(s) on which to focus their reentry programs:

- Youth (ages 14–17)
- Young Adult (ages 18–24)
- Adult (ages 25+)

Who Are Eligible Applicants?

The Office of Justice Programs, in conjunction with its Federal partners, will provide funding for states, local jurisdictions, or tribal units of government to design, implement, enhance and evaluate reentry strategic plans for returning offenders in the defined age categories.

To be eligible for funding, the state, local or tribal government applicant must have established and described in its application a partnership that includes all the relevant stakeholders including ranking officials from :

- Juvenile and/or adult justice agencies
- Courts
- Law enforcement
- Job training/workforce investment boards
- Community-based organizations
- Education agencies and institutions
- Substance abuse, mental health agencies, and

• A local reentry program evaluator

Applicants are also encouraged to collaborate with non-profit organizations, small, neighborhood-based organizations, and private foundations and faith-based groups.

What Are the Key Elements of a Reentry Strategy?

Although the structure of the applicants' reentry strategies may vary depending on available resources and relevant laws and policies, successful applications will outline strategies that have the following elements or are in the process of developing them:

• Establishment of a clear and ongoing authority to hold the offender accountable so long as there is legal jurisdiction. Sanctions should be appropriate and graduated, including return to confinement status.

• Implementation of a detailed assessment process'forensic, educational, vocational, mental health, and substance abuse.

• Development of a reintegration plan that clearly addresses all issues identified in the assessment phase and becomes the guide by which the offender must manage reentry into the community.

• Utilization of existing community resources to implement the plan which affords continuity and availability of service delivery and ensures familiarity by the offender with the service system and also increases potential for sustainability of the program and the offender in the community.

• Application of graduated levels of supervision and sanctions to offenders such as highly structured housing, electronic monitoring, team supervision, and consistent and equitable responses to lack of compliance or reoffending.

• Involvement of local law enforcement, probation, parole, and the community in tracking the activities and behaviors of offenders.

• Utilization of community-based organizations, which include faith-based organizations, to mentor and provide services to the offenders.

Funding Strategy

Each applicant will be required to identify Federal, State, and local resources that will be leveraged, redeployed and accessed to support the various components of their reentry programs-in institutions and/or in the community. Grant funds that will be made available through this Initiative will be used to fund the components of an applicant's program for which they have been unable to identify and/or obtain the necessary resources.

Applicants can obtain online information, at *http://www.ojp.usdoj.gov/reentry/funding.htm,* to help them identify existing funding resources available from the Federal partners that could be leveraged to support the development and implementation of state and local reentry programs.

Upcoming Teleconference and Workshops About Reentry Grant Applications

DOJ and its Federal partners plan to hold a national teleconference, as well as regional workshops, to provide information about applying for reentry grant funding. Information about these events will be posted on the OJP Reentry website once the dates have been finalized.

Note to Applicants for DOJ's Canceled Young Offender Initiative

Applicants who responded to the previous Young Offender Initiative solicitation must *reapply* to receive funding under this solicitation. Those applications must conform to the requirements as described in the Serious, Violent Offender Reentry Initiative.

Deborah J. Daniels,

Assistant Attorney General, Office of Justice Programs.

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